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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.546 of 2015

And

M.P.No.1 of 2015 and W.M.P.No.31243 of 2016

- 1.P.Soundararajan
- 2.M.Durairaj
- 3.K.K.Shanmugam
- 4.P.Nagarajan
- 5.V.K.R.Rathinavel
- 6.K.Ayyakannu
- 7.S.Madesh
- 8.G.Ravichandran
- 9.S.Sivaprakasam
- 10.S.P.Muralikrishnan
- 11.R.Arasu
- 12.B.Ravichandran
- 13.I.Govindarajan
- 14.A.Gunasekar
- 15.A.Saravanan
- 16.R.Sethuraman
- 17.R.Ashok Kumar
- 18.P.Appunathan
- 19.C.Gunasekaran
- 20.V.Ramachandran
- 21.R.Balakrishnan
- 22.S.Madasamy
- 23.V.Azhagappan
- 24.K.Iyyamperumal
- 25.P.Sundaramurthy
- 26.M.Saravanan
- 27.M.Kumar
- 28.S.Kumaraguru
- 29.G.Raghulan
- 30.C.Rajkumar
- 31.D.Sekar
- 32.J.Shanmugam
- 33.G.Ramachandran
- 34.K.Bhaskar
- 35.T.Bhaskaran
- 36.R.Manivannam
- 37.T.Kumarasamy



38.A.Sivagurunathan
39.G.Dharmaraj
40.K.Ravindran
41.M.Mohamed Mustafa
42.P.Krishnan
43.R.Ravindran
44.C.Palanisamy
45.I.Yesu Stephenraj
46.S.Muthusamy
47.P.Tamilarasu
48.K.Duraisamy
49.R.Jagannathan
50.S.Velappan
51.T.Vajravel
52.R.Sivaraj
53.K.Pandian
54.B.Durai
55.R.Anandan
56.S.Jagadeesan
57.G.Elango
58.V.Janardhanan
59.V.Anna Durai
60.M.Narayanamurthy
61.S.Gouthaman
62.V.Srinivasan
63.M.J.Muthupandian
64.B.Rajendiran
65.V.Vimalavithan
66.R.Kandhan
67.M.D.Gopalakrishnan
68.M.Chandran
69.K.Sampath
70.K.Chandrasekaran
71.S.Vijayakumar
72.V.Manivannam
73.C.Ayyanar
74.N.Ramasamy
75.S.T.Rajendran
76.S.Pothiraj
77.R.Ramakrishnan
78.B.Amudha

... Petitioners

Vs.

1. The State of Tamilnadu
rep. by its Secretary,
Cooperation Food and Consumer Protection,
Fort St.George,
Chennai - 600 009.



2. The Registrar of Cooperative Societies,
NVN Maaligai, Kilpauk,
Chennai - 600 010.

3. The Secretary,
Finance Department,
Fort St. George,
Chennai - 600 009.

4. The Director of Cooperative Audit,
Cooperative Audit Department,
Slum Clearance Board Complex,
Kamarajar Salai,
Chepauk,
Chennai - 600 005.

5. The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
Chennai - 600 003.

... Respondents

Prayer:

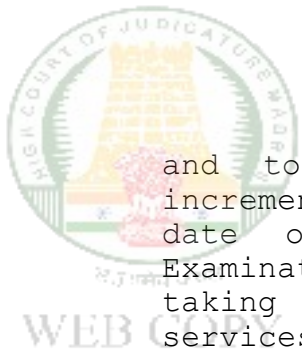
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records relating to second respondent's order made in Rc.No.38361/2013/EM.3 dated 17.04.2014, to quash the same and consequently direct the respondents to forthwith include already earned increments and as well as notional increment from 16.10.1989, the date of successful completion of the Special Qualifying Examination and to notionally revise and refix the benefits thereto and also by taking into account the already rendered services as qualifying services for arriving at the pension and pensionary benefits.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.S.T.S.Murthy for R1, R2 and R4
Additional Advocate General
Assisted by Ms.Girija
Additional Government Pleader
Mr.J.Ramesh for R3
Additional Government Pleader
Mr.Karthick Rajan for R5

O R D E R

The petitioners have filed this writ petition seeking to quash the order passed by the second respondent dated 17.04.2014



and to direct the respondents to include already earned increments as well as notional increment from 16.10.1989, the date of successful completion of the Special Qualifying Examination and to notionally revise and refix the benefits by taking into account the already rendered services as qualifying services for arriving at pension and pensionary benefits.

2.The case of the petitioners is that they were appointed under Rule 10 (a) (i) as Junior Inspector of Cooperative Societies during the year 1985. According to the petitioners, some of the similarly placed persons were given the benefits of G.O.Ms.No.445, Finance (Cooperative Audit) Department, dated 20.12.2005 and therefore disparity arose. Hence, the Government was addressed seeking to set right the mistake which had crept in the drawal of seniority and fixation of pay, however, the impugned order came to be passed. Hence, this writ petition.

3.The learned counsel appearing for the petitioners submitted that the issue involved herein is covered by the order of this Court dated 21.09.2017 in W.P.No.15439 of 2014, the operative portion of which is usefully extracted hereunder:

"8.This Court, upon considering the submissions made by the learned counsel for the petitioners and upon perusing the pleadings and the materials placed on record entirely agree with the contention that the impugned proceedings is nothing but a clear attempt made by the second respondent, to treat the equals as unequals and the same in violation of Articles 14 & 16 of the Constitution of India. This Court is also further agree with the learned counsel for the petitioners that the impugned proceedings is contrary to the order passed by the learned single Judge of this Court, which was upheld in the writ appeals as aforesaid. In any event, this Court, is of the considered view that the petitioners herein, being similarly placed like the petitioners/Junior Inspectors, who were conferred with the benefit of G.O.445, Finance (Audit) Department dated 20.12.2005, cannot be treated differently. Such treatment per se smacks of malafides, arbitrariness and cannot stand the test of judicial scrutiny of this Court. For the aforesaid reasons, this Court has no hesitation in allowing the writ petition. Therefore, the impugned order passed by the second respondent in Rc.No.41406/2009/EM3 dated 31.05.2013 is set aside. The second respondent is directed to grant the benefit of regularisation to all the petitioners covered under



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impugned proceedings in terms of G.O.No.445, Finance (Audit) Department dated 20.12.2005 and also on par with two other employees namely Mr.C.Thirupathi and Mr.S.Velu, with all attendant benefits as granted to them. Such exercise shall be completed by the respondents within a period of two months from the date of receipt of a copy of this order.

9.The writ petition is disposed of, with the above direction. No costs. Consequently, connected miscellaneous petition is closed."

The learned counsel further submitted that pursuant to the aforesaid order, G.O.(MS) No.56, Cooperation, Food and Consumer Protection (CL2) Department, dated 11.05.2020 came to be passed and hence, the said benefit may be extended to the petitioners herein as well.

4.Heard the submissions made on the side of the respondents, who reiterated the averments made in the counter affidavit and submitted that all the ousted temporary Junior Inspectors who had come out successful in the special qualifying examination have been reappointed based on the directions of the Tribunal in batch of cases and their services have been regularised with effect from 16.10.1989 in respect of those who were in service on 16.10.1989; and in respect of others including the petitioners, their services were regularised with effect from the date of their reappointment as they were not in service on 16.10.1989. However, it is fairly submitted that the respondent authorities would consider the claim of the petitioners and pass orders, on merits and also in the light of the aforesaid order cited on the side of the petitioners.

5.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and also following the aforesaid earlier order, this Court finds it appropriate to direct the respondent authorities to reconsider the claim of the petitioners, taking into account the aforesaid earlier order passed by this Court in W.P.No.15439 of 2014 and to that extent alone, the order impugned herein is liable to be set aside.

6.Accordingly, the order dated 17.04.2014 passed by the second respondent is set aside and the matter is remanded back to the respondent authorities for passing fresh orders, in accordance with law and also in the light of the order dated 21.09.2017 passed in W.P.No.15439 of 2014 and taking into consideration G.O.(MS) No.56, Cooperation, Food and Consumer



Protection (CL2) Department, dated 11.05.2020, within a period of eight weeks from the date of receipt of a copy of this order.

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7. With the above direction, this writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-

Assistant Registrar (CS VIII)

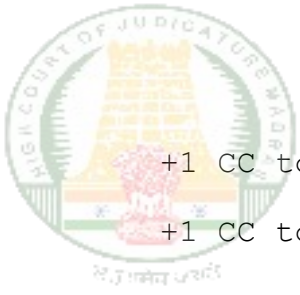
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Sub-Assistant Registrar

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To

1. The Secretary,
Cooperation Food and Consumer Protection,
Fort St. George,
Chennai - 600 009.
 2. The Registrar of Cooperative Societies,
NVN Maaligai, Kilpauk,
Chennai - 600 010.
 3. The Secretary,
Finance Department,
Fort St. George,
Chennai - 600 009.
 4. The Director of Cooperative Audit,
Cooperative Audit Department,
Slum Clearance Board Complex,
Kamarajar Salai,
Chepauk,
Chennai - 600 005.
 5. The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
Chennai - 600 003.
- +1 CC to The Government Pleader, Sr 19176.
+1 CC to Special Government Pleader, Sr 19118.



+1 CC to Mr. Karthik Rayan, Advocate
(Standing Counsel for TNPSC), Sr 18703.
+1 CC to Mr.L.Chandrakumar, Advocate, Sr 18750.

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W.P.No.546 of 2015
And
W.M.P.No.31243 of 2016
and M.P.No.1 of 2015

PL(CO)
LS(16/07/2021)