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WP.Nos.10142, 10143 and 10144 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:22.11.2022

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. Nos.10142, 10143 and 10144 of 2010
and M.P.Nos.2,2 and 2 of 2010 and 1 of 2012
and W.M.P.Nos.14007, 23625 and 28897 of 2017

W.P.No.10142 of 2010:

M.Ramachandran

... Petitioner

Vs.

1.The Commissioner of Sugar
No.690, Anna Salai
Nandanam
Chennai – 600 035.

2.The Special Officer
Dharmapuri District Co-operative Sugar Mills Ltd.,
Palacode – 636 808.
Dharmapuri District.

3.The Secretary to the Government
Industries Department
Secretariat
Chennai – 9.

... Respondents



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W.P.No.10143 of 2010:

D.Saravanan (Deceased)

2.K.Kavitha

W/o Late D.Saravanan

3.Selvi Keerthana

D/o Late D.Saravanan

4.Selvi Divya Praba

Minor D/o Late D.Saravanan

5.Parameshwari

M/o Late D.Saravanan

(P2 to P5 substituted as Lrs of deceased sole petitioner vide order of this Court dated 01.03.2022 made in W.M.P.No.4321 of 2022)

... Petitioners

Vs.

1.The Director of Sugar

No.690, Anna Salai

Nandanam

Chennai – 600 035.

2.The Chief Executive Officer

Arignar Anna Sugar Mills Ltd.,

(Unit of Tamil Nadu Sugar Corporation Ltd)

Kurungulam 613 303.

Thanjavur.

3.The Secretary to the Government

Industries Department

Secretariat

Chennai – 9.



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4.The Chairman and Managing Director
Tamil Nadu Sugar Corporation Ltd
No.474, Anna Salai
Chennai – 600 035.

... Respondents

W.P.No.10144 of 2010:

A.Melvin Joseph

... Petitioner

Vs.

1.The Director of Sugar
No.690, Anna Salai
Nandanam
Chennai – 600 035.

2.The Chief Executive Officer
Arignar Anna Sugar Mills Ltd.,
(Unit of Tamil Nadu Sugar Corporation Ltd)
Kurungulam 613 303.
Thanjavur.

3.The Secretary to the Government
Industries Department
Secretariat
Chennai – 9.

4.The Chairman and Managing Director
Tamil Nadu Sugar Corporation Ltd
No.474, Anna Salai
Chennai – 600 035.

... Respondents



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Prayer in W.P.No.10142 of 2010: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the order dated 24.03.2010 in letter No.26553/MIC.2/2006-5 passed by the 3rd respondent and the order dated 28.04.2010 in Na.Ka.No.3033/89/C1 passed by the 2nd respondent and quash the same.

Prayer in W.P.No.10143 of 2010: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the order dated 24.03.2010 in letter No.26553/MIC.2/2006-5 passed by the 3rd respondent and the order dated 03.05.2010 in Estt/859/2006/B passed by the 2nd respondent and quash the same.

Prayer in W.P.No.10144 of 2010: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the order dated 24.03.2010 in letter No.26553/MIC.2/2006-5 passed by the 3rd respondent and the order dated 03.05.2010 in Estt/858/2006/B passed by the 2nd respondent and quash the same.

In W.P.No.10142 of 2010:

For Petitioner : Mr.S.Anbazhagan

For Respondents : Mr.J.C.Durairaj
Addl. Govt. Pleader for RR1 & 3



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Mrs.Malarvizhi Udayakumar
for R2

In W.P.No.10143 of 2010:

For Petitioners : Mr.K.M.Ramesh
For Respondents : Mr.J.C.Durairaj
Addl. Govt. Pleader for RR1 & 3
Mrs.Malarvizhi Udayakumar for R2

In W.P.No.10144 of 2010:

For Petitioner : Mr.M.S.Soundararajan
For Respondents : Mr.J.C.Durairaj
Addl. Govt. Pleader for RR1 & 3
Mrs.Malarvizhi Udayakumar
for R2

COMMON ORDER

These Writ Petitions have been filed,

(i) to call for the records relating to the order dated 24.03.2010 in letter No.26553/MIC.2/2006-5 passed by the 3rd respondent and the order dated 28.04.2010 in Na.Ka.No.3033/89/C1 passed by the 2nd respondent and quash the same.

(ii) to call for the records relating to the order dated 24.03.2010 in letter No.26553/MIC.2/2006-5 passed by the 3rd respondent and the order

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dated 03.05.2010 in Estt/858/2006/B passed by the 2nd respondent and quash the same.

(iii) to call for the records relating to the order dated 24.03.2010 in letter No.26553/MIC.2/2006-5 passed by the 3rd respondent and the order dated 03.05.2010 in Estt/859/2006/B passed by the 2nd respondent and quash the same.

2.Since the issue involved in these Writ Petitions are similar in nature, for better appreciation, dates and events in the W.P.No.10142 of 2010 alone narrated hereunder:-

The petitioner herein, who acquired the qualification of Diploma in Electrical Engineering was appointed as Electrical Supervisor under the 2nd respondent, in the year 1989 and from 1990 onwards, he was made permanent. During his service, he completed his degree in Electrical Engineering in the year 1996. His next promotional avenue is to the post of “Assistant Engineer” and after completion of B.E., he made representation to the 2nd respondent. As there was no vacancy in the post of Assistant Engineer (Elect.) and considering the representation made by the petitioner,



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the 1st respondent issued an appointment order, appointing the petitioner as Assistant Engineer (Meh) – Additional Charge. However, the petitioner was not granted with monetary benefits earmarked to the above said post of Assistant Engineer (Meh). On 08.11.2005, the post of Assistant Engineer (Elect) was fell into vacant and therefore, the 1st respondent by an order dated 07.02.2006 re-designated the designation of the petitioner, from the date on which he completed his B.E., degree. However, monetary benefits were restricted from 01.01.2006. Thereafter, the 1st respondent as per the circular in Na.Ka.No.941/99 dated 19.10.2000 re-fixed the salary of the petitioner as Rs.6500-200-11100/-, which is earmarked to the post of Assistant Engineer.

3.While so, all of a sudden, the 3rd respondent sent a letter dated 11.09.2007 to the 1st respondent, stating that the post of Assistant Engineer cannot be filled up by re-designating the existing employees. Based on the above said letter, the 2nd respondent issued a letter impugned in this writ petition to the petitioner, reverting him from the post of Assistant Engineer to Electrical Supervisor and re-fixed his salary as Rs.5000-150-8000/- and



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further directed to recover the difference amount from the salary of the petitioner. Aggrieved against the same, the petitioner is before this Court.

4.The learned counsel for the petitioners would submit that the issue involved in these Writ Petitions have already been dealt with by the Hon'ble Apex Court in Civil Appeal Nos.9206-9207 of 2013 dated 18.10.2013 and therefore, by placing reliance on the same, he prayed to quash the orders impugned in these writ petitions.

5.The learned counsel appearing for the petitioner in W.P.No.10144 of 2010 would submit that the petitioner was reverted and all his juniors have been promoted in the year 2012 itself. Therefore, the petitioner herein shall also be considered for promotion from the year 2012.

6.Heard the learned counsels on either side and perused the materials available on record.

7.On perusal of records, it is seen that the Hon'ble Apex Court, in the



case of similarly placed persons has passed the following orders,

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“We have heard learned counsel for the parties. It is not in dispute that the appellant was not responsible for the alleged mistake committed by the concerned authority in re-designating him as Assistant Engineer (Electrical) and fixing his pay in the scale prescribed for that post. This being the position, there was absolutely no justification to order recovery of the amount paid to the appellant in the pay scale prescribed for the post which he has holding at the relevant time.”

8.In view of the above settled preposition of law, this Court is inclined to set aside the orders

(i) in letter No.26553/MIC.2/2006-5 dated 24.03.2010 passed by the 3rd respondent,

(ii) in Na.Ka.No.3033/89/c1 dated 28.04.2010 passed by the 2nd respondent,

(iii) in Estt/858/2006/B dated 03.05.2010 passed by the 2nd respondent and

(iv) in Estt/859/2006/B dated 03.05.2010 passed by the 2nd respondent and accordingly, it is set aside. With regard to promotion in respect of the



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petitioners, they have to work out their remedy in the manner known to law.

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9.In the result, these Writ Petitions are allowed. No costs.

Consequently connected miscellaneous petitions are closed.

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Index:Yes/No

Internet:Yes/No

Speaking Order: Yes/No

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2.The Secretary to the Government

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J.NISHA BANU, J.,



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