



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 07.01.2022

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CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.11450 of 2014

1. C.Jayapradha
2. R.P.Adhina
3. B.Jayabharathi
4. R.M.Priya
5. S.Parasakthi
6. Savithri
7. J.Sudha
8. D.Komala
9. S.Poovizhi
10. R.Vijayalakshmi
11. R.Suresh
12. B.Yamuna
13. S.Sathya
14. D.Vimala
15. M.Vidyavathi
16. Kirubasankari
17. K.Jayagandhi
18. P.Rajathi
19. M.Chandramohan
20. S.Radhai
21. R.Prabhavathi
22. K.Vedharathinam
23. K.Jayakumar
24. T.Paneerselvam
25. D.Chandran

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by the Secretary to Government,
Finance Department,
Fort St. George, Chennai 09.
2. The Secretary to Government,
Government of Tamil Nadu,
Agriculture Department,
Fort St. George, Chennai 09.



3. The Commissioner of Agriculture,
Chepauk, Chennai - 05.

4. The Joint Director of Agriculture,
Villupuram District,
Villupuram.

... Respondents

Writ petition filed under Section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records in pursuant to the impugned clarification letter issued by the 1st respondent in Letter No.38566/Paycell/2009-1, dated 06.08.2009 and quash the same and consequently direct the respondents to permit the petitioners to exercise their respective option for revised scales of pay as per G.O.Ms.No.234, finance (Paycell) Department, dated 01.06.2009 and accordingly revise their pay on par with their colleagues and pay the arrears and other consequential benefits.

For petitioner : Mr.Ravishanmugam for
Mr.Premnarayan

For Respondents : Mr.P.Anandakumar,
Government Advocate

O R D E R

This Writ Petition is filed to quash the impugned clarification letter issued by the 1st respondent in Letter No.38566/Paycell/2009-1, dated 06.08.2009 and for a consequential direction to the respondents to permit the petitioners to exercise their respective option for revised scales of pay as per G.O.Ms.No.234, finance (Paycell) Department, dated 01.06.2009 and accordingly revise their pay on par with their colleagues and pay the arrears and other consequential benefits.

2. It is the case of the petitioners that they have been working as Assistant Agricultural Officers since July 2010. Pursuant to the recommendations of the official committee for revision of Pay and Allowances under the Tamil Nadu Revised Pay Scales Rules 2009, the Government had issued G.O.Ms.No.234, Finance (Paycell), Department, dated 01.06.2009. Accordingly as per schedule I, the revised scale of pay Rs.5200-20200 + Rs.2800 Grade Pay was fixed to the post of Assistant Agricultural Officers. Subsequently the following clarification was called from the Government on 06.08.2009:



"I am directed to clarify that employees can opt to remain in the existing scale of pay (Pre-revised scale of pay) upto any period of their choice between 01.01.2006 to 31.05.2009 (i.e.,) prior to the date of issue of notification of Tamil Nadu Revised Scales of Pay Rules, 2009. As such, the employees are permitted to exercise their option to come over to the revised scales from the date on which the pre-revised pay scales were revised upward subsequent to 01.01.2006"

3. In view of the above clarification stated, the Assistant Agricultural Officers appointed prior to 31.05.2009 alone were given the benefits for opting to remain in the existing scale of pay upto any period of their choice. Such benefit is denied to the petitioners who are joined as Assistant Agricultural Officers after 31.05.2009.

4. According to the petitioners the post of Assistant Agricultural Officers is single category and the pay scales are fixed uniformly in G.O.Ms.No.234. Having extended the benefit of exercising option upto 31.05.2009, the same should be extended to all the Assistant Agricultural Officers appointed subsequently since the cut off date is no relevance and it is imaginary.

5. The learned counsel for the to the petitioners submitted that the recruitment notification was issued on 26.08.2008, through which 1707 vacancies of Assistant Agricultural Officers were called for through employment seniority and interview. The petitioners were selected by the TNPSC Department in July 2010 and forwarded the names to the recruiting authority. At the time appointment it is noted that the petitioners had completed their diploma in Agriculture from C.Subramaniam Institute of Agriculture, Tindivanam in Villupuram District. The said Institution was not included in the pre amended Service Rules to the post of Assistant Agricultural Officers in the Tamil Nadu Agricultural Extension Subordinate Service. Thereafter the petitioners along with others filed a petition before this Court for inclusion of C.Subramaniam Institute of Agriculture in the Special Rules and that subsequently the same was allowed by this Court. Thereafter, pursuant to the orders passed by this Court in W.A.No.981 of 2009 and W.P.(MD).No.8296 of 2008, the petitioners were appointed as Agricultural Officers during July 2010. Hence, the delay occurs only in issuing the appointment order to the petitioners.



6. The respondents filed counter affidavit stating that the petitioners were selected and appointed only after issuance of notification implementing the revised scales of pay vide G.O.Ms.No.234, Finance (Pay Cell) Department, dated 01.06.2009. Hence they are not eligible to claim the pre-revised scale of pay on par with their senior who were recruited and appointed prior to 01.06.2009. Hence, their claim was rejected.

7. In response, the learned counsel for the petitioners relied on the Judgement of this Court made in W.P.No.7144 of 2014 wherein in an identical situation, the similarly placed persons were allowed to get the relief as prayed for in the light of the orders passed by this Court in W.P.Nos.15378 to 15383 of 2013 dated 03.10.2019. In the orders passed in W.P.Nos.15378 to 15383 of 2013, this Court had held that where there is a delay due to administrative reason, the employees cannot be deprived of the benefits and it was held that the writ petitioners therein were also entitled for the same benefit. Accordingly, the benefits were extended to all the categories recruited by the Tamilnadu Public Service Commission prior to 01.06.2009 and joined on a subsequent date on or after 01.06.2009. Aggrieved, the Department preferred an appeal in W.A.No.1836 of 2021. By an order dated 04.08.2021, this Court had rejected the claim of the Department and confirmed the order of the learned Single Judge and directed the Government to extend the benefit of G.O.Ms.No.340, Finance (Pay Cell) Department, dated 26.08.2010 to the Writ Petitioners therein who are similarly placed persons as that of the petitioners herein. In the light of the aforesaid decision, the petitioners prayed for the aforesaid relief.

8. I have considered the rival submissions and perused the materials available on record.

9. A fair reading of the Judgment of the Division Bench of this Court dated 04.08.2021 made in W.A.No.1836 of 2021, clearly shows that if there is delay in appointment, due to administrative reasons, the employees cannot be deprived of the benefits which are extended to the persons in similar cadre. Hence, this Court is of the view that the petitioners herein also entitled for the relief sought for in the light of the orders passed in W.A.No.1836 of 2021, dated 04.08.2021. Therefore the respondent Department is directed to revise the scale of pay to the petitioners on par with their batch mates appointed prior to 01.06.2009 in the light of the W.A.No.1836 of 2021 and G.O.Ms.No.340, Finance (Pay Cell) Department, dated 26.08.2010. The said exercise shall be completed within a period of six months from the date of receipt of a copy of this Order.



10. With the above observation, this Writ Petition stands allowed. No costs.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vum
To

1. The Secretary to Government,
State of Tamil Nadu,
Finance Department,
Fort St. George, Chennai 09.
2. The Secretary to Government,
Government of Tamil Nadu,
Agriculture Department,
Fort St. George, Chennai 09.
3. The Commissioner of Agriculture,
Chepauk, Chennai - 05.
4. The Joint Director of Agriculture,
Villupuram District,
Villupuram.
Salem District, Salem.

+1cc to Mr.Prem Narayan, Advocate Sr.1555
+1cc to the Government Pleader Sr.2014

W.P.No.11450 of 2014

pch[co]
srg 3/02/2022