



WP.No.11376 and 7756 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.12.2022

PRONOUNCED ON : 21.02.2023

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**W.P. No.11376 and 7756 of 2011
and M.P.No.1 of 2011**

1. K. Krishnaswami
2. C. Dhanam
3. O.M. Mani
4. D.Thulasi
5. E. Neelamegam
6. S. Gangammal
7. M.Mani
8. N. Selvamani
9. J. Gnanammal
10. R.Radha
11. S. Rani
12. P.Dharman
13. Yesodha

... Petitioners in W.P.No.11376 of 2011

1. G. Subramani
2. G. Nagammal
3. S.V. Murugan
4. C.Panneer
5. C.P. Ramesh
6. K. Sekhar



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7. B. Ravi
8. P. Ramamurthy
9. S.Jayaraman
10. M.Santhi
11. K. James Ulaganathan
12. R. Kanakavalli
13. K. Savithri
14. E. Jagadeesan
15. B. Sampoorunam
16. P. Annammal
17. J. Rajeswari
18. M. Lakshmi
19. K. Lakshmi
20. P.Alangaram
21. K.Sampath
22. P.M. Mani Pillai
23. R. Newton

... Petitioners in W.P.No.7756 of 2011

.Vs.

1. The Secretary
Environment & Forests Department
Government of Tamil Nadu
Secretariat, St. George, Chennai- 600001

2. Principal Chief Conservator of Forests
259, Anna Salai, Chennai-600006

3. The Director
office of the Director, Arinagar Anna Zoological Park,
Vandalur, Chennai-600048

... Respondents in both the
W.Ps



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Common Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus or any other appropriate writ or order of direction in the nature of a writ by calling for the records of the respondents pertaining to the impugned orders of the 1st respondent giving Clarification in their letter No. 31022/FR.5/02-05 dated 26.05.03 and the order of the 2nd respondent in the W.P.No.11376 of 2011 and 3rd respondent in the W.P.No.7756 of 2011 made in Na. Ka. No. 5875/2010/P3 dated 13.10.2010 and quash the same as far as the petitioners are concerned and direct the respondents to pay the arrears of monetary benefits due on the grant of increment from the date of regularization of the petitioners in their respective post till 2002 forthwith along with 12% interest per annum.

For Petitioners : Mrs. M.S. Reshmita & G. Sarma
for M/S. Raj & Raj Associates

For Respondents : Mrs.S.Mythreye Chandru
Spl. Govt. Pleader



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COMMON ORDER

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The above writ petitions are filed seeking to quash the impugned orders dated 26.05.2003 and 13.10.2010 whereby, it is stated that the petitioners are entitled to arrears of pay from the date of issue of G.O.Ms.No.200 Environment and Forest dated 21.10.2002. The said G.O. notified the Special Rules covering the categories of posts such as Animal Keepers, Mali, Food Distribution Helper and Biologists etc. The petitioners herein, who hold such posts in 3rd respondent-Zoological Park are aggrieved that they have not been given monetary benefits from the date of their regularization and therefore, sought direction to the respondents to pay the arrears of monetary benefits due.

2. The Petitioners are originally appointed as Casual Labourers in the 3rd respondent Zoological park in the year 1981. The 1st respondent by G.O. (Ms) 240 dated 19.4.1990 sanctioned various posts to the Zoological park and as such, the petitioners were employed against sanctioned posts. Upon



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repeated request to grant permanent status, the 1st respondent by G.O.Ms.No. 240 dated 19.04.1990 created 72 posts in various categories and regularised the services of 72 casual labourers by absorbing them permanently in their respective services.

3. Subsequently, vide G.O.Ms.No.254 dated 03.08.1995, 51 of the remaining 101 casual labourers were also brought under regular establishment in the post of Animal keeper, Electrician, Plumber, Pump Operator, Gardener, Mali, Sweeper cum Scavenger, Food distribution helper, Night watchman, Security watchman. It has been categorically stated that the incumbents of these posts be brought into regular establishment with effect from the date of issue of this order. By G.O.Ms.No. 23 dated 25.1.1999 some more employees were also brought under regular establishment.

4. Since the above said special category of posts was not covered by any service rules, the 1st respondent-The Secretary, Environment and Forest Department, framed rules for the said posts and the notification says that



these rules shall be deemed to have come into force on 18th December 1986 in respect of Animal Keeper; 1st April 1991 in respect of Electrician, Grade-II Plumber, Pump Gardener, Mali, Sweeper-cum-Scavenger, Distribution Helper, Security Watchman, Watchman and 1st February 1999 in respect of Biologist and Assistant to Electrician.

5. According to the petitioners, upon regularization, their pay scale was fixed and regular increments were given for the first three years and thereafter, the increments were stopped till 2002. From the time of framing of the rules, i.e., 2002 onwards, regular increments were given. Therefore, there was a disparity in the pay drawn by the petitioners and the same was considered by the authorities and a clarification was issued on 26.05.2003.

6. The Deputy Secretary to Government sent the clarification letter dated 26.05.2003 to the 2nd respondent-Principal Chief Conservator of Forests that regarding drawing of arrears of pay, the incumbents are entitled



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for notional fixation with retrospective effect and the monetary benefit should be from the date of issue of G.O.Ms.No.200, Environment and Forest dated 21.10.2002.

7. The contention of the learned counsel for the petitioners is that withholding of monetary benefit in the guise of notional increments is arbitrary and illegal. The learned counsel for the petitioners submits that the petitioners have preferred representations to the respondents seeking for the payment of arrears of salary subsequent to issuance of Tamil Nadu Zoo Subordinate Service Rules, 2002. In the representation, it is averred that the petitioners are entitled to annual increments from the date they were brought under regular establishment on 01.04.1991, 01.08.1999 and 01.02.1999 as the case may be, which is much prior to issuance of G.O.Ms.No.200 dated 21.10.2002.

8. It is the contention of the learned counsel for the petitioners that the petitioners are entitled to pay and allowances from the date they were



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absorbed and brought into regular establishment. The framing of the recruitment rules have no significance in the fixation of pay and payment of increments since they were all absorbed in the sanctioned post and got regularised earlier. Even though the rules covered various categories of posts held in Zoo shall be deemed to have come into force on various dates viz., 18/12/1986, 01/04/1991 and 01/02/1999, the stoppage of increments till 2002 is not sustainable.

9. The learned counsel for the petitioners submits that in the impugned order dated 13.10.2010, it is stated that the petitioners were granted increments for the first three years and thereafter, citing the service rules governing the posts, such increments were stopped.

10. The learned counsel for the petitioners submits that the person similarly placed as that of the petitioners made representations to the respondents on 11.06.2010 requesting for grant of monetary benefits of increment for the period 1995 to 2002 and they were granted such benefits.



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As such, under the guise of clarification dated 26.05.2003, withholding the same by the respondents is not sustainable.

11. The learned counsel for the respondents submitted that approximately 175 labourers were working in the zoo from the year 1979 – 1980 onwards, but they were not educationally qualified. Many of these labourers are over aged and they could not be eligible for the said posts as prescribed by the Government in G.O.Ms.No. 200 E&F Department date 21.10.2002. But the Government sympathetically considered and regularised their services by various Government Orders by relaxing their age and educational qualifications. Further the posts sanctioned in the said GO,s are quite new to the Forest Department and these posts have been created only for newly established zoo. As such, to regulate their services, adhoc rules have been framed by the Government.

12. The learned counsel for the respondent further states that the petitioners were sanctioned 3 increments as per rule 5(1) of FR 26 and



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further increments have been sanctioned on a later date with financial effect from 21.10.2002.

13. Heard both sides and perused the records.

14. On the basis of the issuance of G.O.Ms.No. 240 dated 19.4.1990, 72 posts have been sanctioned and the said posts were filled up from among the existing casual labourers. The said order was issued with the concurrence of Finance Department vide U.O.42611/FACF/90-1 dated 17.04.1990. In the said Government Order, the scale of pay includes the increment sanctioned for the said posts.

15. Even though the Government has issued the Government Order, whereby, the labourers of various categories are absorbed into regular establishment, including the casual labourers working in the Arignar Anna Zoological Park, the Deputy Secretary to Government, has addressed to the 2nd respondent that regarding drawing of arrears of pay, the incumbents are



entitled for notional fixation with retrospective effect and the monetary benefit should be from the date of issue of G.O.Ms.No.200 dated 21.10.2002.

On the basis of such communication, the 2nd respondent rejected the claim of the petitioners for monetary benefits from the date of regularisation of their services.

16. The clarification issued by the 2nd respondent dated 13.10.2010 clarified that the monetary benefit should be from the date of issue of G.O.Ms.No.200 dated 21.10.2002. But it is the clear case of the petitioners that they are entitled to annual increments from the date they were brought under regular establishment on 01.04.1991, 01.08.1999 and 01.02.1999 as the case may be, which is much prior to issuance of G.O.Ms.No.200 dated 21.10.2002.

17. The State Government, by issuance of G.O.Ms.No.240 dated 19.4.1990, sanctioned 72 posts whereby, the existing casual labourers like petitioners were regularized. The said order was issued with the concurrence



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of Finance Department dated 17.04.1990. Subsequently, vide

G.O.Ms.No.254 dated 03.08.1995, 51 of the remaining 101 casual labourers were also brought under regular establishment in the post of Animal keeper, Electrician, Plumber, Pump Operator, Gardener, Mali, Sweeper cum Scavenger, Food distribution helper, Night watchman, Security watchman. By G.O.Ms.No. 23 dated 25.1.1999 some more employees were also brought under regular establishment. In such view of the matter, the stoppage of increments till 2002 is not sustainable. Since the petitioners are entitled to annual increments from the date they were brought under regular establishment viz., 01.04.1991, 01.08.1999 and 01.02.1999 as the case may be. Therefore, the proceedings passed by the 2nd respondent which is only a clarification cannot be allowed to supersede the Government Orders issued in favour of the employees. The advantage of the Government Orders issued to absorb the casual labourers was for giving them the benefit of salary and increment as per the pay scale fixed by the Government in consultation with the Finance department. In such circumstances, the stoppage of increment under the guise of clarification is found to be against the policy decision



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taken by the Government by taking note of all aspects into consideration including the pay protection and welfare of the employees. As such, the impugned orders dated 26.05.03 and 13.10.2010 are quashed. The respondents are directed to pay the arrears of monetary benefits due in respect of increments from the date of regularization of the petitioners in their respective post till 2002, within a period of 3 months from the date of receipt of a copy of this order.

18. The writ petitions are allowed on the above terms. No costs.
Connected MP is closed.

21.02.2023

Index:Yes/No
Internet:Yes/No
Speaking Order: Yes/No
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- To
1. The Secretary
Environment & Forests Department
Government of Tamil Nadu
Secretariat, St. George
Chennai- 600001
 2. Principal Chief Conservator of Forests
259, Anna Salai
Chennai-600006
 3. The Director
office of the Director
Arinagar Anna Zoological Park,
Vandalur, Chennai-600048



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J.NISHA BANU, J.,

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