



W.A.Nos.114 & 116 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2023

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A.Nos.114 and 116 of 2020
and C.M.P.Nos.1655 & 1657 of 2020
and C.M.P.Nos.11458 and 11671 of 2022**

R.Ravichandran	...	Appellant in W.A.No.114/2020
K.N.Murugan	...	Appellant in W.A.No.116/2020

-Vs-

1.The Principal Secretary to Government Industries Department, Chennai - 600 009.		
2.The Commissioner of Sugar Nandanam, Chennai - 600 035.	...	R1 & R2 in both appeals
3.The Special Officer Salem Co-operative Sugar Mills Ltd, Mohanur-637 015.	...	R3 in WA 114 of 2020

The Administrator M.R.Krishnamoorthy Cooperative Sugar Mills Ltd Sethiathope 608 702, Chidambaram Taluk Cuddalore District.	...	R3 in WA 116 of 2020
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Prayer : Writ Appeals under Clause 15 of the Letters Patent against the order in
W.P.No.9987 & 9988 of 2010 dated 18.09.2019.

In Both W.As.

For Appellants	:	Mr.V.Govardhanan for M/s.Row and Reddy
For Respondents	:	Mr.Vadivelu Dheenadayalan Addl.Govt Pleader for RR1 and 2 Mr.R.Bala Ramesh - for R3 in WA 114/2020 Mr.V.Venkatachalam - for R3 in WA 116/2020



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J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

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Since the issue raised in both the appeals is one and the same, with the consent of the learned counsel for both sides, the writ appeals were taken together, heard and disposed of with this common judgment.

2. The respective writ appellants were initially appointed as Technical Assistant and subsequently their services were regularized by the proceedings issued by the Joint Commissioner of Sugar in the Supervisory cadre and the appellants were re-designated originally as Junior Engineer and subsequently as Assistant Engineer.

3. At that time, in the year 1984 at the instance of the first respondent, the second respondent had made a common cadre service of all the employees. Therefore, it became necessitated for re-designation and therefore re-designation has been made.

4. However subsequently in the year 1997, once again the Government took a policy decision to reverse the common cadre designation given to those employees that was started to be implemented and therefore, the designation already given by virtue of the common cadre system was reviewed. Therefore, in view of the common cadre was abolished, because of the re-designation it became inevitable to alter the pay structure.



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5. Once the pay structure was altered, during the re-designation period after the common cadre system was introduced, these appellants could have received some additional pay and such additional pay was considered to be excess pay and therefore the respondents sought to recover that amount.

6. Only at that juncture, the employees / appellants filed the writ petitions. When those writ petitions came up for hearing before the learned Judge, it was brought to the notice of the writ court that already similar issue had been concluded by the orders of the Division Bench of this Court in W.A.No.1979 and 1980 of 2011 by order dated 08.12.2011. However the matter was taken upto the Hon'ble Supreme Court in C.A.Nos.9206 and 9207 etc., of 2013, where the Hon'ble Supreme Court having confirmed the decision taken by the High Court, took a lenient view with regard to the recovery of pay that has been made to those employees and to that extent the Hon'ble Supreme Court passed the following order:

"We have heard the 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 was holding at the relevant time."



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7. Therefore, with regard to the recovery of the alleged excess pay to these kind of employees since the Hon'ble Supreme Court has intervened and passed the aforesaid order, the learned single Judge, following the very same order, has disposed the writ petitions in terms of the orders passed by the Hon'ble Supreme Court. Aggrieved over the same, the present appeals have been directed.

8. Heard Mr.V.Govardhanan for M/s.Row and Reddy learned counsel appearing for the appellants and Mr.Vadivelu Dheenadayalan, learned Additional Government Pleader appearing for the first and second respondents and Mr.Bala Ramesh, learned counsel appearing for the third respondent.

9. Insofar as the said issue having been concluded by the orders of the Hon'ble Supreme Court as stated supra, there could be no dispute that the issue has been concluded by the Hon'ble Supreme Court, which is binding. Therefore, we are also inclined to accept the same view taken by the learned single Judge, who passed the impugned order.

10. Accordingly, these appeals are disposed in terms of the order passed by the Hon'ble Supreme Court in the said Civil Appeals. No costs. Consequently, connected miscellaneous petitions are closed.



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11. We make it clear that this judgment will not preclude the appellants from making any further representation to seek for further remedy, if it is available to them in the manner known to law.

(R.S.K.,J.) (G.A.M.,J.)
22.12.2023

Index : Yes
Internet : Yes
KST

To

- 1.The Principal Secretary to Government
Industries Department, Chennai - 600 009.
- 2.The Commissioner of Sugar
Nandanam, Chennai - 600 035.
- 3.The Special Officer
Salem Co-operative Sugar Mills Ltd,m
Mohanur-637 015.



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