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W.P. Nos.18727 and 20747 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2023

CORAM:

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN
and
THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P. Nos.18727 and 20747 of 2023
W.M.P. Nos.17973, 17974, 20122 and 20123 of 2023

1 S. Kumar
2 T. Natarajan
3 D. Sivakumar Petitioners in W.P. No.18727 of 2023

1 S. Vinayagam
2 R. Raman
3 C. Ramesh
4 D. Sivakumar
5 R. Sivakumar
6 V. Thangadurai
7 M. Chandiran
8 J. Thenmozhi
9 M.K. Jayanthi
10 R. Premeela Devi
11 K. Ponmani
12 G. Sarala
13 P. Malathi
14 M. Selva Nayagi
15 S. Kaliyammal
16 Prema
17 A. Sheik Akbar
18 K. Vennila
19 S. Seetha
20 A. Vijaya
21 T. Anees Sulthana
22 D. Suganthamala

Petitioners

v

1 The Secretary to Government

<https://www.mhc.tn.gov.in/judis>



W.P. Nos.18727 and 20747 of 2023

Home (Pay Cell) Department
Fort St. George, Chennai 600 009

2 The Registrar General
High Court of Madras
Chennai 600 104

3 The Principal District Judge
Villupuram

Respondents in both W.Ps.

Prayer in W.P. No.18727 of 2023:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records in (1) D.No.6846/2022 dated 04.07.2022 & (2) D.No.671 dated 25.01.2023 on the file of the respondents herein, quash the same and consequently, direct the respondents to give the benefits of one increment to the 1st, 2nd and 3rd petitioners on the basis of G.O.Ms.No.450, Home (Courts-V) Department dated 11.08.2011.

Prayer in W.P. No.20747 of 2023:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records in (1) D.No.5270 dated 11.05.2022 and (2) D.No.12375 dated 13.12.2022 on the file of the respondents and quash the same and consequently, direct the respondents to give the benefits of one increment to all the petitioners on the basis of G.O.Ms.No.450, Home (Courts-V) Department dated 11.08.2011.

For petitioners in
both WPs

Mr. S. Tamilselvan

For R1 in
both WPs

Mr. V. Yamuna Devi
Special Government Pleader

For RR 2 & 3 in
W.P. No.18727/2023

Mr. V. Vijay Shankar
Standing Counsel

For RR 2 & 3 in
W.P. No.20747/2023

Mr. B. Vijay
Standing Counsel



COMMON ORDER

The grievance of the petitioners in both the writ petitions being common, these writ petitions are considered and decided by this common order.

2 The facts that gave rise to the filing of these writ petitions are as under:

2.1 The petitioners joined the district judiciary in various capacities such as Junior Assistant / Copyist / Typist / Assistant / Reader / Junior Bailiff / Steno Typist and were subsequently promoted as Bench Clerk-Grade II / Head Clerk / Central Nazir / Sherishtadar / Deputy Nazir / Translator / Record Keeper in the district judiciary. All of them were sanctioned promotional increment @ 3% as per G.O. (Ms.) No.450, Home (Courts V) Department dated 11.08.2011.

2.2 While so, they were served with proceedings of the third respondent enclosing the objection of the Internal Audit Wing of the High Court in respect of recovery of excess pay and allowances made to them.

2.3 Aggrieved, they addressed representations to the authorities concerned for stoppage of recovery of excess pay. Finding no positive response, they have filed the instant writ petitions challenging the aforesaid proceedings of the third respondent and for a direction to the respondents to give them the benefit



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of the Government Order mentioned in paragraph 2.1, *supra*.

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3 Heard both sides and perused the materials available on record.

4 Admittedly, out of the petitioners in these two writ petitions, only two petitioners in W.P. No.20747 of 2023, *viz.*, J. Thenmozhi and A. Sheik Akbar have been issued with recovery order, based on the impugned proceedings of the third respondent and those two proceedings have not been put to challenge. The other petitioners in both the writ petitions have not been issued with recovery order. Whether the two petitioners mentioned *supra* have been afforded due opportunity before effecting recovery order or not, has not been mentioned or questioned in W.P. No.20747 of 2023.

5 As far as the impugned proceedings of the third respondent is concerned, it is only an Office Note enclosing the internal audit report. In case, any show cause notice for recovery is issued, after affording an opportunity of being heard, a decision can be arrived at by the authorities concerned and in case, any adverse decision is taken by the authorities, it is open to the petitioners to challenge the same in accordance with law.



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In the result, both the writ petitions are dismissed. However, as far as petitioners 8 and 17 in W.P. No.20747 of 2023, viz., J.Thenmozhi and A. Sheik Akbar, are concerned, they are at liberty to challenge the recovery order, in case, they had not been afforded due opportunity in accordance with law. No costs. Connected W.M.Ps. are closed.

(S.V.N., J.) (K.R.S., J.)

13.07.2023

cad

To

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