



W.A(MD)Nos.520, 521, 1412, 1536 & 1585 of
2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2023

CORAM :

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and**

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.A(MD)Nos.520, 521, 1412, 1536 and 1585 of 2023

and

C.M.P(MD)Nos.5264, 5268, 5269, 11019, 11844 and 12273 of 2023

W.A.(MD)Nos.520, 521, 1412 and 1585 of 2023:-

1. The State of Tamil Nadu,
Represented by the Secretary to Government,
Finance Department,
Fort St. George, Chennai.
2. The District Collector,
Office of Collectorate,
Ramanathapuram District.
3. The District Revenue Officer,
Office of Collectorate,
Ramanathapuram District. ... Appellants in all the W.As.

vs.

R.Chamundeeswari	... Respondent in W.A.(MD)No.520/2023
R.Lakshmi @ Saradha	... Respondent in W.A.(MD)No.521/2023
K.R.Manjula	... Respondent in W.A.(MD)No.1412/2023
M.G.Gomathy	... Respondent in W.A.(MD)No.1585/2023

Prayer:- Appeals filed under Clause 15 of Letters Patent, against the order dated 13.10.2022, made in W.P(MD)Nos.1270 and 1337 of 2020, 13779 and 13775 of 2022.



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2023**

For Appellants : Mr.J.Ravindran
Additional Advocate General
Assisted by
Mr.Saji Bino
Special Government Pleader

For Respondent : Ms.Porkodi Karnan
for M/s.Polax Legal Solutions

W.A(MD)No.1536 of 2023:-

1. The State of Tamil Nadu,
Represented by the Secretary to Government,
Finance Department,
Fort St. George, Chennai.
2. The District Collector,
Collector Office,
Madurai District.
3. The District Revenue Officer,
Collector Office,
Madurai District.
4. The Pay and Accounts Officer,
South Veli Street,
Madurai.

... Appellants

vs.

R.Sridharapandian

... Respondent

Prayer:- Appeal filed under Clause 15 of Letters Patent, against the order dated 28.11.2022 made in W.P(MD)No.26441 of 2022.

For Appellant Nos.1 to 3 : Mr.J.Ravindran
Additional Advocate General
Assisted by
Mr.Saji Bino
Special Government Pleader



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For Appellant No.4 : Mr.P.Gunasekaran
Standing Counsel

For Respondent : Mr.Mohammed Imran
for M/s.Ajmal Associates

COMMON JUDGMENT

**[Judgment of the Court was made by
The Hon'ble CHIEF JUSTICE]**

The respondents in the Writ Appeals filed writ petitions before the learned Single Judge, challenging the communications, dated 24.10.2019 and 03.11.2021, and seeking direction against the appellants to refix their salary, by granting the fitment benefit from the date of their appointment in the light of G.O.Ms.No.340, Finance (Pay Cell) Department, dated 26.08.2010. The learned Single Judge allowed the Writ Petitions. Aggrieved thereby, the State has filed the present Appeals.

2. The learned Additional Advocate General for the State submits that it was an error on the part of the learned Single Judge in relying upon G.O.Ms.No.340, dated 26.08.2010. The said Government Order was only with regard to the Junior Assistants/Agricultural Officers recruited by the Tamil Nadu Public Service Commission in March, 2009 and May, 2009 and who joined on or after 01.06.2009. The delay



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was on account of relieving the individual employees by the Departments concerned, where they were working as Contract Assistants and in the case of Agricultural Officers, the delay in joining duty is due to issue of posting orders by the Regional Joint Directors of Agriculture, which is purely administrative delay and not the fault of the individuals. According to the learned Additional Advocate General, the learned Single Judge could not have applied the Principle of Parity, as the recruitment of the respondents is distinct and separate from Junior Assistants/Agricultural Officers. The Government Order would be limited to Junior Assistants/Agricultural Officers and cannot be extended to the other employment. The learned Additional Advocate General further submits that the said Government Order is issued only for the purpose of Junior Assistants/Agricultural Officers upon the recommendation of One Man Commission. In the case of the respondents, there is no such recommendation. It was an error on the part of the learned Single Judge to apply G.O.(Ms)No.340, dated 26.08.2010, to the case of the respondents.

3. The learned counsels for the respondents/writ petitioners submits that the said Government Order is equally applicable to all the employees, who are recruited prior to 01.06.2009, but because of administrative reasons, the appointment orders were issued after 01.06.2009.



4. We have considered the submissions canvassed by the learned
counsel appearing for the parties.

5. Paragraph Nos.3 to 6 of the Government Order read thus:-

"3) The One Man Commission has examined and observed that the disparity in pay of Junior Assistants/ Agricultural Officers recruited by the Tamil Nadu Public Service Commission in March, 2009 and May, 2009 and who joined on or after 1-6-2009 has arisen due to delay in relieving the individual employees by the departments concerned where they were working as Contract Assistants and in the case of Agricultural Officers, the delay in joining duty is due to the issue of posting orders issued by the Regional Joint Directors of Agriculture which is purely administrative delay and not the fault of the individuals. Hence, considering the above peculiar circumstances and also taking into account the fact that some of the juniors happened to draw more pay than their seniors (as per their seniority list of Tamil Nadu Public Service Commission) by way of fitment benefit due to their joining prior to 01-06-2009 and the seniors joining duty after 01-06-2009 due to administrative reasons, the Commission has therefore recommended to compensate the monetary loss incurred by the employees recruited by Tamil Nadu Public Service Commission in March, 2009 and May, 2009 in the same batch but appointed on a date after 01-6-2009 due to administrative reasons by relaxing Rule-9 of the Tamil Nadu Revised Scales of Pay Rules, 2009 in favour of the incumbents.



4) The Government has carefully examined the above recommendations of the One Man Commission and decided to rectify the anomaly as pointed out by the One Man Commission. Accordingly, Government direct that in exercise of the powers conferred under Rule 13 of the Tamil Nadu Revised Scales of Pay Rules, 2009, relax the Rule 9 of the Tamil Nadu Revised Scales of Pay Rules, 2009 in favour of the incumbents recruited as Junior Assistants from among the Contract Assistants / Agricultural Officers and any other similar categories of posts recruited by the Tamil Nadu Public Service Commission in the same batch prior to 1-6-2009 and joined / appointed on a subsequent date on or after 1-6-2009 due to administrative reasons duly allowing the fitment benefit to the individual employees concerned as a special case. However, Government direct that the above fixation benefit shall be given notional effect from the date of appointment of the individual employees concerned with monetary benefit from 1-8-2010.

5) Based on the above general orders, the Heads of Departments / Pay fixing authorities concerned are requested to re-fix the pay of the individual employees concerned by issuing separate Office Proceedings in this regard immediately.

6) The above orders allowing fitment benefit is not applicable to the new recruits in whose cases the selection list have been issued by the Tamil Nadu Public Service Commission / Employment Exchanges and consequent appointment orders issued by the Heads of Departments after 1-6-2009 i.e. after the date of issue of notification of the Tamil Nadu Revised Scales of Pay Rules, 2009 in the G.O. first read above. In such cases, the



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new recruits are entitled to have their pay fixed only at the minimum of the Pay Band plus Grade Pay applicable to the respective posts."

6. From a reading of the said Government Order in its entirety, it is manifest that the fitment order under G.O.(Ms)No.340, dated 26.08.2010, was not restricted to the Junior Assistants/Agricultural Officers. It would be applicable to those who were recruited earlier, but the posting/appointment orders were issued after 01.06.2009. The Government in exercise of the powers conferred under Rule 13 of the Tamil Nadu Revised Scales of Pay Rules, 2009, relaxed Rule 9 of the Tamil Nadu Revised Scales of Pay Rules, 2009, in favour of the incumbents recruited as Junior Assistants from among the Contract Assistants / Agricultural Officers and any other similar categories of posts recruited by the Tamil Nadu Public Service Commission in the same batch prior to 01.06.2009 and joined/appointed on a subsequent date on or after 01.06.2009 due to administrative reasons.

7. It is not disputed that the recruitment process of the respondents was undertaken in the year 2008. The select list was also published on 07.11.2008. The certificate verification was also conducted on 05.12.2008. Only due to administrative reasons, the appointment orders were issued to these respondents on 03.08.2009.



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It would appear that the respondents are not at fault. The respondents are similarly situated as that of the Junior Assistants/Agricultural Officers covered under G.O.(Ms)No.340, dated 26.08.2010. There was no reason to apply different yardstick to these respondents. A Division Bench of this Court in **W.A.No.186 of 2023, dated 02.02.2023 [The State of Tamil Nadu and others vs. C.Jayapradha and others]**, was dealing with the case of Assistant Agricultural Officers. The Assistant Agricultural Officers were also not named in G.O.(Ms)No.340, dated 26.08.2010. The benefit was accorded to the Assistant Agricultural Officers recruited prior to 01.06.2009, however, appointment orders were issued after 01.06.2009.

8. The learned Single Judge has considered the said aspect in proper perspective. As per the said Government Order, the monetary benefits were given from 01.08.2010 and not from 01.06.2009. It was only the fitment that was permitted. The same would also apply to the respondents herein. The respondents will not get monetary benefits prior to 01.08.2010. It is only the notional fitment that will be applicable.



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9. The Writ Appeals, as such, are dismissed. No costs.

Consequently, connected Miscellaneous Petitions are closed.

[S.V.G., C.J.]

[L.V.G., J.]

01.12.2023

Index : Yes / No

Neutral Citation : Yes / No

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THE HONOURABLE CHIEF JUSTICE
and
L.VICTORIA GOWRI, J.

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Common Judgment in
W.A(MD)Nos.520, 521, 1412, 1536 and 1585 of 2023

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