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W.P.(MD)Nos.9699 to 9703 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.9699 to 9703 of 2018

and

W.M.P.(MD)No.8646 of 2018

W.P.(MD)No.9699 of 2018:

K.Thirumalai Murugan

... Petitioner

vs.

1.The Director,
Animal Husbandary and Veterinary Services,
Central Office Building, Chennai-6.

2.The Assistant Director,
Animal Husbandary and Veterinary Services,
Electric Road, Tenkasi,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the record pertaining to Na.Ka.No.934/Aa/2018, dated 19.04.2018, on the file of the 2nd respondent and to



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quash the same and consequentially, to direct the respondents to refix the salary as per G.O.Ms.No.340, dated 26.08.2010.

W.P.(MD)No.9700 of 2018:

R.Jacob

... Petitioner

vs.

1.The Director,
Animal Husbandary and Veterinary Services,
Central Office Building, Chennai-6.

2.The Assistant Director,
Animal Husbandary and Veterinary Services,
Electric Road, Tenkasi,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the record pertaining to Na.Ka.No.934/Aa/2018, dated 19.04.2018, on the file of the 2nd respondent and to quash the same and consequentially, to direct the respondents to refix the salary as for the G.O.Ms.No.340, dated 26.08.2010.



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W.P.(MD)No.9701 of 2018:

Senthivelarumugam

... Petitioner

vs.

1.The Director,
Animal Husbandary and Veterinary Services,
Central Office Building, Chennai-6.

2.The Assistant Director,
Animal Husbandary and Veterinary Services,
Electric Road, Tenkasi,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the record pertaining to Na.Ka.No.934/Aa/2018, dated 19.04.2018, on the file of the 2nd respondent and to quash the same and consequentially, to direct the respondents to refix the salary as for the G.O.Ms.No.340, dated 26.08.2010.

W.P.(MD)No.9702 of 2018:

Muthukumar

... Petitioner

vs.

1.The Director General of Police,
Chennai.



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2.The Commandant,
The Tamil Nadu Special Police,
11th Battalion,
Rajapalayam,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the record pertaining to Na.Ka.No.B2/596/2018, dated 28.03.2018, on the file of the 2nd respondent and to quash the same and consequentially, to direct the respondents to refix the salary as for the G.O.Ms.No.340, dated 26.08.2010.

W.P.(MD)No.9703 of 2018:

Subbaiya

... Petitioner

vs.

1.The Director General of Police,
Chennai.

2.The Commandant,
The Tamil Nadu Special Police,
11th Battalion,
Rajapalayam,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the record pertaining to



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the appointment was given periodically to various persons. After completion of the verification of community certificate, the petitioner was given appointment on 28.02.2011. The petitioner submitted several oral representations and a written representation, dated 19.04.2018, to refix the salary on par with similarly placed person as per G.O.Ms.No.340, Finance (Pay Cell) Department, dated 26.08.2010 and the benefit may be given effect from 01.08.2010. The said G.O. clearly states that as per one man commission, the benefits will be given for the appointments in the month of May 2009 and June 2009 onwards, who were appointed on or after 01.06.2009.

3. The contention of the petitioner is that the examination was conducted on 17.02.2008 and the results were published on April 2009. The respondents granted appointment to various persons periodically. Accordingly, the petitioner was appointed on 25.05.2010. Hence, the petitioner is entitled to the benefits, as per G.O.Ms.No.340, Finance (Pay Cell) Department, dated 26.08.2010. The said



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G.O. clearly states that the monetary benefits will be given with effect from 01.08.2010. For the representation of the petitioner, the respondents have passed the impugned order, dated 19.04.2018, stating that the petitioner is not entitled to the benefits, since the petitioner was not appointed in May 2009 and June 2009. The other writ petitioners are also similarly placed persons and they are raising the same cause of action. Hence, the writ petitions are taken together and a common order is passed.

4. The respondents have filed counter affidavit in two writ petitions W.P. (MD)Nos.9702 and 9703 of 2018. The counter affidavits states that Government orders issued clearly states that the employees recruited by TNPSC in May 2009 and June 2009 and joined on or after 01.06.2009 due to administrative reasons may be allowed the benefit as a special case. It is also stated that the said fitment is not applicable to new recruitments. In those cases, the selection have been issued by the TNPSC and consequent appointment orders issued by the Head of



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the Department after 01.06.2009, i.e., after the date of issuance of the Tamil Nadu Revised Scales of Pay Rules, 2009 and in such case, the new recruits are entitled to have their pay fixed at the minimum of pay band at grade pay applicable to the respective posts. In Circular, dated 19.04.2018, the Director General of Police, Chennai, clearly states that Junior Assistants who are recruited in the month of December 2009 are not eligible to the above fitment benefit. Hence, the respondents prayed to dismiss the writ petitions.

5.Heard Mr.G.Karnan learned Counsel appearing for the petitioner in all cases and Mr.N.Muthuvijayan, learned Special Government Pleader appearing for the respondents in all cases.

6. The case of the respondents are that they were appointed on a consolidated wages in the year 2003 itself. Subsequent to the said recruitment, the said employees were regularized by conducting competitive examinations.



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These writ petitioners participated in the competitive examinations and they were selected. Due to want of vacancy and other administrative reasons, these persons who have participated in the competitive examination were not given appointment order, in spite of their selection. Due to these administrative reasons, several requests were submitted to the Government. The Government after carefully considering the requests passed G.O.Ms.No.340, Finance (Pay Cell) Department, dated 26.08.2010.

7. In these writ petitions, the writ petitioners have participated in the said competitive examination which were conducted based on the notification issued in the year 2007. TNPSC has issued the selection list as well. The Head of the Department had submitted the vacancy list belatedly, hence the TNPSC has submitted the list belatedly, consequently the appointment orders were issued by the Head of the Department belatedly. Due to the delay in such process, the petitioners did not get the appointment order in time in the permanent vacancy.



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Therefore, the reason for which the G.O.Ms.No.340, Finance (Pay Cell) Department, dated 26.08.2010, was issued is covering the petitioner's case also.

8. This Court has also considered the similar issue in the writ petitions filed in W.P.(MD)No.14292 of 2019 batch in the case of K. Ramanarayanan Vs. the Secretary to Government vide order dated 23.01.2023 and the writ petitions were allowed. Therefore, this Court is inclined to allow the present writ petitions also. Hence, the impugned orders are quashed. The respondents in all the writ petitions are directed to grant the benefit of G.O.Ms.No.340 Finance (Pay Cell) Department, dated 26.08.2010, with monetary effect from 2010 onwards. The said exercise shall be completed within a period of 8 weeks from the date of receipt of a copy of this order.

9. It is submitted that the writ petitioner in W.P.(MD)No.9700 of 2018 died. Therefore, the respondents are directed to refix the benefits applicable to the writ



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petitioner and the same shall be disbursed to the legal heirs. The legal heirs of the deceased petitioner are at liberty to submit a representation to the respondents to claim the benefits that are applicable to the writ petitioner in W.P.(MD)No.9700 of 2018 and the respondents shall disburse the same to the legal heirs.

10. As far as W.P.(MD)No.9699 of 2018 is concerned, the person is still in service. The effect and the benefit shall be granted to the petitioner.

11. As far as the W.P.(MD)Nos.9701, 9702 and 9703 are concerned, the writ petitioners have retired from service. The effect shall be granted in the salary with consequential effect in the terminal benefits.

12. With the above said observations, the writ petitions are allowed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No

Internet : Yes

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Issue order copy on : **01.02.2023**

04.01.2023



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To

- 1.The Director,
Animal Husbandary and Veterinary Services,
Central Office Building, Chennai-6.
- 2.The Assistant Director,
Animal Husbandary and Veterinary Services,
Electric Road, Tenkasi,
Tirunelveli District.
- 3.The Director General of Police,
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- 4.The Commandant,
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S.SRIMATHY, J

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