



W.P(MD)No.25458 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25458 of 2022

and

W.M.P.(MD)No.19548 of 2022

Stellabai

... Petitioner

Vs.

**1.Government of Tamilnadu,
Represented by its
Secretary to Government,
Finance Department,
Fort St.George,
Chennai-9.**

**2.Director of Animal Husbandry and Veterinary Services,
Chennai-35.**

**3.Regional Joint Director of Animal Husbandry,
Thoothukudi.**

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the third respondent in Na.Ka.No. 4785/Aa2/2019, dated 11.03.2020 and the consequential recovery proceedings of the third respondent in No.5482/A1/2022, dated 31.10.2022 and to quash the same and consequently, direct the respondents herein to refix the salary of the



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petitioner giving fitment benefit on par with the persons recruited by the Tamil Nadu Public Service Commission in the same batch (ie. 2009 Batch) along with him with all consequential benefits.

For Petitioner : Mr.V.Kannan

For Respondents : Mr.R.Baskaran
Additional Advocate General
assisted by Mr.T.Villavan Kothai
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The petitioner was appointed as Junior Assistant on consolidated basis in the year 2003. She took part in the special committee examination held on 17.02.2008. The results were announced to 16.07.2008. Allotment to the animal husbandry was made on 22.12.2009. The formal appointment order was given on 02.02.2010. The petitioner claimed the benefit of G.O.Ms.No.340, dated 26.08.2010. The benefit was conferred on the petitioner. By the impugned order, the benefit was sought to be recalled and recovery proceedings were also initiated. Questioning the same, the present writ petition came to be filed.



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3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4. The respondents have filed the counter affidavit and the learned Additional Government Pleader took me through its contents and contended that the impugned order does not warrant interference. He pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record. The issue raised in the writ petition is no longer *res integra*. A number of writ petitions on the same cause of action were filed and allowed. I myself sustained similar claims vide order dated 13.10.2022 in W.P.(MD)Nos.1270 & 1337 of 2020. Paragraph Nos.11, 12 & 13 of the said order read as follows:-

“11. The only issue that calls for consideration is this. Whether the writ petitioners were recruited / selected prior to 01.06.2009 by TNPSC. If the answer is in the affirmative, the petitioners have to be



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given the benefit of G.O.Ms.No.340, Finance (Pay Cell) Department, dated 26.08.2010. Even the respondents cannot dispute that the writ petitioners were selected prior to 01.06.2009. To be precise, all the writ petitioners were selected in November 2008. Therefore, I have no hesitation to follow the aforesaid decision relied on by the learned counsel appearing for the petitioners. That apart, Paragraph No.6 of G.O.Ms.No.340, Finance (Pay Cell) Department, dated 26.08.2010, makes the position fully clear. It is as follows:-

(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 Exchange and consequent appointment orders issued by the Heads of Department after 01.06.2009 ie., 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 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.

12. It can be seen therefrom that the Collector wanted to deny the benefit of G.O.Ms.No.340, Finance (Pay Cell) Department, dated 26.08.2010 only to those who were recruited and appointed after the cutoff date ie., 01.06.2009. Admittedly, the petitioners do not fall within the scope of Paragraph No.6. Therefore, the orders impugned in the writ petitions are set aside.

13. The writ petitions are allowed. No costs. Consequently, connected miscellaneous petition is closed.”

6. The case on hand is squarely covered by the said order. The impugned order is set aside. The petitioner will be entitled to all the



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consequential monetary benefits. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

09.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To

1.The Secretary to Government,
Finance Department,
Fort St.George,
Chennai-9.

2.Director of Animal Husbandry and Veterinary Services,
Chennai-35.

3.Regional Joint Director of Animal Husbandry,
Thoothukudi.



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G.R.SWAMINATHAN, J.

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