



W.P.Nos.36995 to 36997 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

|               |           |
|---------------|-----------|
| Reserved on   | 1/11/2023 |
| Pronounced on | 30/4/2024 |

C O R A M

The Hon'ble Dr.Justice **D.NAGARJUN**

**Writ Petition Nos.36995 to 36997 of 2015**

**a n d**

**M.P.Nos.2,2,2, 3, 3 and 3 of 2015**

|                    |     |                                       |
|--------------------|-----|---------------------------------------|
| P.Kannan           | ... | Petitioner<br>in W.P.No.36995 of 2015 |
| V.K.Venkataeswaran | ... | Petitioner<br>in W.P.No.36996 of 2015 |
| C. Devaraj         | ... | Petitioner<br>in W.P.No.36997 of 2015 |

Vs

1. The Government of Tamil Nadu  
rep. By Secretary  
Micro, Small and Medium Enterprises Department  
Fort St. George  
Chennai 9.
2. The Industries Commissioner and  
Director of Industries and Commerce  
III Floor, SIDCO Head Office Buildings  
Thiru Vi Ka Industrial Estate  
Guindy  
Chennai 25.



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3. Kumar Jayanth

...

Respondents in all the  
writ petitions

**Common Prayer:** Petitions filed under Article 226 of the Constitution of India for the issuance of a writ of certiorarified mandamus to call for the records on the file of the first respondent relating to the impugned order, viz., Letter No.47/Works I (1)/2015-1 dated 20/5/2015 issued by the third respondent in the capacity of the Secretary to first respondent and quash the same and consequently, direct the respondents 1 and 2 to sanction two advance increments to the petitioner for acquiring P.G.Degree i.e., M.Tech in Energy Engineering, M.E in Manufacturing Technology, M.E Degree in Industrial System Engineering from the date of acquiring the same, along with arrears therefor to be paid to the petitioner and further direct the respondents to compensate the petitioner for delaying the said two advance increments to the petitioner all these years and forcing the petitioner to approach this Court.

For petitioners

...

Mr.N.Subramaniyan

For respondents

...

Mr.M.Murali  
Government Advocate  
for R.R.1 and 2

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### **COMMON ORDER**

These writ petitions have been filed seeking to quash the order dated 20/5/2015 passed by the third respondent in Letter No.47/Works I (1)/2015-1 based on G.O.Ms.No.97, Personnel and Administrative Reforms (FR IV) Department, dated 5/7/2010.

2. The petitioners have joined as Assistant Engineer under the second respondent on 10/6/1996. While working as such, they have acquired M.Tech Degree, M.E.Degree and M.E Degree, respectively. As there is a policy to grant two advance increments for acquiring P.G qualification, the petitioners have made representations to the second respondent. However, the request of the petitioners was declined by the third respondent, vide, order dated 20/5/2015. Being aggrieved by the same, the petitioners have filed these writ petitions.

3. Heard Mr.N.Subramaniyan, learned counsel for the petitioners and Mr.M.Murali, learned Government Advocate for the respondents 1 and 2.



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4. Relying on the order passed in W.P.No.2703 of 2012 ([K.Murugan vs. the Government of Tamil Nadu](#), rep.by Secretary, Public Works Department, Chennai -9), the learned counsel appearing for the petitioners submitted that in the aforementioned writ petition, this Court has directed the official respondents to grant two advance increments to the Assistant Engineers/Assistant Executive Engineers/Executive Engineers who acquired P.G degree even at the cost of Government, thereby, submitted that the petitioners are also entitled for two advance increments.

5. It is submitted by the learned Government Advocate that the first respondent has rejected the request of the petitioners on the ground that the policy of sanction of two advance increments for acquiring P.G.Degree was negatived with effect from 1/4/2013 as recommended by the Pay Grievances Redressal Cell, PGRC, constituted after Revised Pay Rules, 2009.

6. As submitted by the learned counsel for the petitioner this Court has allowed the similar claim in an order dated 10.9.2012 in W.P.No.2703 of 2012 ([K.Murugan vs. the Government of Tamil Nadu](#), rep.by Secretary, Public



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Works Department, Chennai -9). It is relevant to extract paragraphs 5 and 6 of the said judgment.

"5. The learned counsel for the petitioner has placed heavy reliance on the decision of this Court dated 10.8.2012 in W.P.Nos.21006 to 21008 of 2012. In [the said judgment](#), this Court has categorically held that G.O.Ms.No.97 Personnel and Administrative Reforms (FR IV) Department dated 5.7.2010 is prospective and therefore, the persons who acquired M.E.Degree before the date of issuance of G.O.Ms.No.97 are entitled to advance increment.

6. I have perused [the said judgment](#). Paragraph No.7 in the aforesaid judgment is extracted hereunder:

"7. A perusal of G.O.Ms.No.97 dated 5.7.2010 would go to show that it is purely prospective



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in nature. There is nothing to indicate that it has got retrospective operation. It is too well settled that any Act, Rule, Regulation or Government Order, which is , pure and simple, procedural in nature, is always retrospective unless a different intention is shown either expressly or impliedly in the said Act, Rule, Regulation or Government Order itself. Similarly, if any Act, Rule, Regulation or Government Order relates to a substantive right of a party, it is always prospective unless a different intention has been shown in the said Act, Rule, Regulation or Government Order itself. Here, in this case, G.O.Ms.No.97 does not either expressly or impliedly state that it has got retrospective operation. Instead, there is an indication that it has got prospective operation. Therefore, G.O.Ms.No.97 cannot take away the substantive right accrued to the petitioner to have the benefit of two advance increments. Thus, the



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petitioners are entitled for two advance increments."

7. In the light of the above, this Court is of the considered view that the said judgment is squarely applicable to these cases, further this order was passed subsequent to change in the policy with effect from 1/4/2013 and hence, the impugned orders are liable to be quashed.

8. In the result, these **writ petitions are allowed** and the order dated 20/5/2015 passed by the third respondent in Letter No.47/Works I (1)/2015-1 is hereby quashed. The respondents are directed to grant two advance increments to the petitioners, for acquiring M.E Degree, within a period of six weeks, from the date of receipt of a copy of this order. The respondents are further directed to pay the arrears to the petitioners, within a period of six weeks, thereafter. No costs. Consequently, the connected Miscellaneous Petitions are closed.

30/4/2024

mvs.

Index: Yes/No



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NCC: Yes/No

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To

1. The Government of Tamil Nadu  
Micro, Small and Medium Enterprises Department  
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**Dr.D.NAGARJUN,J**

**mvs.**

**Pre-delivery common order made in  
W.P.Nos.36995 to 36997 of 2015**

**30/4/2024**