



WP(MD)No.13561 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.13561 of 2022 and
WMP(MD)Nos.21738 of 2022 and 1898 of 2023**

S.Alex

... Petitioner

Vs

**1.The Secretary to Government,
P & AR (FR-IV) Department,
Secretariat, Chennai – 9.**

**2.The Director of Public Health and Preventive Medicine
DMS Campus, Teynampet,
Chennai – 6.**

**3.The Public Analyst,
Food Analysis Laboratory,
Dr.Thangaraj Salai,
Madurai.**

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari calling for the records relating with the order of the 2nd respondent made in Na.Ka.No.100552/Pa.Tho. 2/Iru2/2021 dated 02.06.2022 and quash the same.

**For Petitioner : Mr.R.Suriya Narayanan
For Respondents : Mr.K.Balasubramani,
Special Government Pleader**



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ORDER

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The petitioner is a Junior Analyst in the Food Analysis Laboratory, Madurai. He was provided with an advance increment in view of the government order in GO(Ms)No.97, Personnel and Administrative Reforms (FRIV) Department, dated 05.07.2010 for having acquired higher qualification. However it has been ordered to be recovered by the impugned order.

2.The learned Counsel for the petitioner submits that without appreciating the directions issued vide GO(Ms)No.37 Personnel Administrative Reforms (FR.IV) Department dated 10.03.2020, the impugned recovery order has been passed.

3.The learned Counsel on either submit that such a recovery order has already been challenged before this Court and this Court has settled that there cannot be any recovery as against the advance increment already granted to the government servants in view of Class 6 (iv) of the government order in GO(Ms)No.37 Personnel Administrative Reforms



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(FR.IV) Department dated 10.03.2020. The learned Counsel for the petitioner has relied on the orders of this Court in WP(MD)No.24024 of 2022, dated 05.12.2023.

4.This Court considered the rival submissions made and perused the materials placed on record.

5.The policy of the government for providing advance increment for acquiring higher qualification and for passing departmental tests was reviewed by the government vide government order in GO(Ms)No.37 Personnel Administrative Reforms (FR.IV) Department dated 10.03.2020 and the government cancelled the scheme of sanction of advance increment and clarified that the advance increment for acquiring higher qualification already granted to the government servants need not be effected any recovery.

6.This Court in WP(MD)No.24024 of 2022 vide order dated 05.12.2023, has held as follows:

“8. The entire claim of the writ petitioner is based



upon G.O.Ms.No.97, Personnel and Administrative Reforms (FR-IV) Department, dated 05.07.2010. A perusal of the said Government Order indicates that the Government Servant is eligible for two advance increments as and when they acquire higher qualification. In the present case, the petitioner was appointed as a Lab Assistant for which prescribed qualification is B.Sc. Zoology. Certainly, the acquisition of M.Sc. Zoology would enhance his work performance and hence, the granting of incentive increments for acquisition of higher qualification is legally sustainable under the said Government Order. That apart, the Government in their order in G.O.Ms.No.37, Personal and Administrative Reforms (FR-IV) Department, dated 10.03.2020 had categorically declared that any incentive increment which has already been disbursed to the Government Servant need not be recovered. When the Government Orders are operating in the field, a letter of the first respondent herein cannot supersede them. Therefore, the letter dated 21.08.2019 said to have been issued by the second respondent is not enforceable.

9. In view of the above said findings, the impugned order in the writ petition is set aside. The writ petition is allowed. Any consequential orders passed



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pursuant to the impugned order are also set aside and the petitioner shall be restored to his original position. The recovered amount shall be refunded within a period of twelve (12) weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.”

7.In view of the above, this writ petition is allowed. The impugned order is set aside. No costs. Consequently connected miscellaneous petitions are closed.

11.12.2024

DSK

To

- 1.The Secretary to Government,
P & AR (FR-IV) Department,
Secretariat, Chennai – 9.
- 2.The Director of Public Health and Preventive Medicine
DMS Campus, Teynampet,
Chennai – 6.
- 3.The Public Analyst,
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B.PUGALENDHI.J.,

DSK

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