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W.A.(MD)Nos.1808 and 1834 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.(MD)Nos.1808 and 1834 of 2023

and

C.M.P.(MD)No.13757 and 14014 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 the Collectorate,
Ramanathapuram District.

3.The District Revenue Officer,
Office of the Collectorate,
Ramanathapuram District.

: Appellants

Vs.

T.R.Karthikeyan

: Respondent in W.A.(MD) No.
1808 of 2023

M.P. Malathi

: Respondent in W.A. (MD) No.
1834 of 2023

PRAYER: Writ Appeals filed under Clause 15 of the Letters Patent Act,
to set aside the order dated 13.10.2022 made in W.P.(MD)Nos.13776 and
13777 of 2022.



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W.A.(MD)Nos.1808 and 1834 of 2023

For Appellants : Mr.S.Shaji Bino
Special Government Pleader
For Respondents : Mrs.Porkodi Karnan
for M/s.Polax Legal Solutions

COMMON JUDGMENT

[Judgment of the Court was delivered by **R.SURESH KUMAR, J.**]

These appeals have been directed against the order passed by the Writ Court in a common order dated 13.10.2022 made in W.P.(MD)Nos.13775 to 13779 of 2022. Since these Writ Appeals have confined only to the facts of the Writ Petitions in W.P.(MD)Nos.13776 and 13777 of 2022, the petitioners in the said Writ Petitions have been shown as respondents herein.

2.Mr.S.Shaji Bino, learned Special Government Pleader appearing for the appellants would contend that even though the issue raised in these appeals appears to have been concluded by the decision of atleast two other Division Benches and those orders also have been confirmed by the Hon'ble Supreme Court by the respective orders, passed in the Special Leave Petitions filed by the State, still the issue is not concluded and in one Special Leave Petition, notice has been ordered and it is pending consideration before the Hon'ble Supreme Court.



WEB COPY



W.A.(MD)Nos.1808 and 1834 of 2023

3.The learned Special Government Pleader would further submit that in one Special Leave Petition, even though the said Special Leave Petition was dismissed, it was observed by the Hon'ble Supreme Court that the question of law is kept open to be decided in an appropriate case. Therefore, the question of law, since has been kept open, that has to be raised in this appeal also, wherein arguments can be advanced to be decided. Therefore, it cannot be simply brushed aside, as if it has been covered by the order of the Division Bench and also the order passed by the Hon'ble Supreme Court. Therefore, the point taken by the learned counsel for the respondents that the issue is covered by the decision of this Court confirmed by the Hon'ble Supreme Court, cannot be countenanced, he contended.

4.The learned Special Government Pleader would further submit that against the order of the Writ Court, review has also been filed by the State, that is also pending. Therefore, at this juncture, interference is called for to the order impugned in this Writ Appeal.

5.However, the learned counsel for the respondents, who are the writ petitioners before the writ Court, has relied upon the judgment of the Division Bench of this Court dated 01.12.2023 in a batch of Writ



Appeals in W.A.(MD)Nos.520 of 2023 etc., batch, in a matter of ***State of Tamil Nadu represented by Secretary to Government, Finance Department and others vs. R.Chamundeeswari*** and others.

WEB COPY

6.Insofar as the decision, that has been taken by the Division Bench in the said batch of Writ Appeals, is concerned, the learned counsel would contend that the facts are similar, therefore, what has been stated in the said order, which has been confirmed by the Hon'ble Supreme Court in the Special Leave Petition filed by the State, would squarely apply to the facts of the present case and therefore, absolutely there is no merit in these appeals, hence, they have to be dismissed *in limine*.

7.We have given our anxious consideration to the submissions made by the learned counsel for both sides and also perused the materials placed before this Court.

8.The issue is as to whether the benefit that has been extended to the said employee of the State Government under G.O.Ms.No.340, Finance (Pay Cell) Department, dated 26.08.2010, can be extended to the present employees, that is the respondents herein and similarly placed



employees, whose cases have been covered by the impugned order passed by the Writ Court. Insofar as the said question is concerned, whether the benefit accrued on the employees arising out of G.O.Ms.No. 340, is to be extended to other similarly placed employees, even though the category of such employees have not been included in the said G.O.Ms.340 itself.

9.This question though has been raised in these appeals and projected by the learned Special Government Pleader for the appellants, we are not impressed upon such submissions made by the learned Special Government Pleader, because, it has been line by line considered and decided by the Division Bench in ***Chamundeeswari's*** case cited supra. In order to have a ready reference of the order, the relevant portion is extracted hereunder:

“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



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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. 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



WEB COPY

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.”

10.In ***Chamundeeswari's*** case also, those employees were not named or listed in G.O. Ms.No. 340. Despite that they were entitled to get benefits arising out of G.O.Ms.No.340 was the answer given by the Division Bench and in fact, the Division Bench has taken note of the earlier decision in W.A.No.186 of 2023, dated 02.02.2023 in the matter of ***The State of Tamil Nadu and others vs. C.Jayapratha and others.***

11.Thereafter, the consistent view that has been taken by the Division Bench in ***C.Jeyapratha's*** case as well as in ***Chamundeeswari's*** case, though had been appealed before the Hon'ble Supreme Court, in the case of ***Chamundeeswari*** in S.L.P.Nos.2451 to 2455 of 2024, the Hon'ble Supreme Court has held as follows:

“We are not inclined to interfere with the impugned judgment(s) and order (s) of the High Court. Accordingly, the Special Leave Petitions are dismissed.

Pending application (s), if any, shall stand disposed of.”



WEB COPY



12.In another Special Leave Petition filed by the State in the case of ***Principal Secretary, Finance Department and others vs. R.Velchamy and others*** arising out of the judgment of the Division Bench, dated 27.03.2023 in W.A. (MD) No. 317 of 2023, the Hon'ble Supreme court has passed the following order:-

“Delay condoned.

Heard the learned counsel appearing for the petitioners.

We are not inclined to interfere with the impugned judgment and order passed by the High Court. Hence, the Special Leave petition is dismissed. However, question of law is kept open to be considered in an appropriate case.

This order shall not be treated as a precedent.

Pending application (s), if any, shall stand disposed of.”

13.The learned Special Government Pleader appearing for the appellants relied upon the order in ***R.Velchamy's*** case passed by the Hon'ble Supreme Court, stating that the question of law since has been kept open to be considered in an appropriate case, it cannot be stated that the issue has been concluded, therefore, that question of law can be



reiterated and if the present appeal is an appropriate case, such issue can be reopened, heard and decided in this case, he contended.

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14.We are also not impressed with the said submission, because, the present case is not an appropriate case to decide such question of law for the reason being that, the facts of the present case are similar to that of the facts of the said ***Chamundeeswari's*** case, wherein, exactly, what has been decided by the Division Bench, by an order dated 01.07.2021 in paragraph Nos.6 to 8, as has been quoted hereinabove, would squarely apply to the facts of the present case and the said ***Chamundeeswari's*** case has been appealed by the State, of-course unsuccessfully.

15.Therefore, quietus has been given by the Hon'ble Supreme Court to the said issue as has been decided by the Division Bench and hence, we in another Division Bench cannot override what has been decided by the co-equal Bench. Moreover, we do not see any reason even to refer the matter to the Full Bench.

16.The said reasoning given by the Division Bench in ***Chamundeeswari's*** case is to be accepted and moreover, when the said



WEB COPY

reasoning given by the Division Bench was challenged before the Hon'ble Supreme Court, it was also negated by passing orders in the said Special Leave Petition dated 19.02.2024. Therefore, in all fairness, this concluded decision made by this Court as well as by the Hon'ble Supreme Court has to be taken into account and accordingly, the appellants have to comply with the order, that has been passed by the learned Single Judge.

17.In the present case, the learned Single Judge, apart from these decisions already been made, has given his own reasons, as the impugned order was passed by the learned Single Judge in October, 2022, whereas the present orders of the Division Bench as well as the Hon'ble Supreme Court have come recently, ie., in December, 2023 and February, 2024. Therefore, independently also, the reasons, that have been stated by the learned Single Judge for allowing the said Writ Petitions, are to be accepted, in view of the law, having been settled by the two Division Bench judgments and confirmed by the Hon'ble Supreme Court as stated supra.

18.Therefore, for all these reasons, we do not find any plausible reasons to interfere with the order impugned in these Writ



W.A.(MD)Nos.1808 and 1834 of 2023

Appeals and hence, these Writ Appeals fail and accordingly, these Writ

Appeals are dismissed. However, there shall be no order as to costs.

Consequently, connected miscellaneous petitions are closed.

[R.S.K.,J.] & [G.A.M.,J.]
18.06.2024

Neutral Citation : Yes/No

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W.A.(MD)Nos.1808 and 1834 of 2023

R.SURESH KUMAR, J.
and
G.ARUL MURUGAN, J.

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ORDER MADE IN
W.A.(MD)Nos.1808 and 1834 of 2023

18.06.2024