



WP.(MD).Nos.30570 to 30573 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 12.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)Nos.30570 to 30573 of 2023

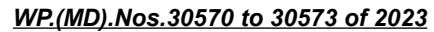
and

**W.M.P.(MD)Nos.2643, 2644, 2638,2640,2645,2646,
2636 and 2641 of 2024**

A.Auxilia Mary	... Petitioner in WP(MD)No.30570 of 2023
S.Muthumariyammal	... Petitioner in WP(MD)No.30571 of 2023
M.Selvi Suguna	... Petitioner in WP(MD)No.30572 of 2023
K.Jansi Rani	... Petitioner in WP(MD)No.30573 of 2023

Vs.

- 1.The Director of Medical and Rural Health Services,
DMS Campus,
Teynampet,
Chennai-600 006.
- 2.The Joint Director of Medical and Rural Health
Services and Family Welfare,
Theni @ Periyakulam,
Theni District.
- 3.The Additional Chief Secretary
to Government,
Health and Family Welfare
Department,
Secretariat, Chennai-600 009.



... Respondents in all WP's

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents i.e., the Director of Medical and Rural Health Services, Chennai, the Joint Director of Rural and Health Services and Family Welfare, Theni, the Additional Chief Secretary to Government, Health and Family Welfare Department, Chennai and the Additional Chief Secretary to Government, Finance (Pay Cell) Department, Chennai to sanction the petitioner's increment from 01.10.2022 as per the pay already fixed as per G.O.Ms.No.340 Finance (Pay Cell) Department dated 26.08.2010 within a specified time frame that may be fixed by this Court.

(Prayer amended vide Court order dated 12.03.2024 made in W.P.(MD)Nos. 30570 to 30572 of 2023)

In all Writ Petitions:

For Petitioner : Mr.S.Viswalingam

For Respondents : Mr.S.Shaji Bino
Special Government Pleader



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COMMON ORDER

All the petitioners herein are typists, recruited by the Tamil Nadu Public Service Commission under group IV examination held in the year 2006-2007.

2. The petitioners were allotted with duty in the Medical Department and were posted as typist and joined duty on various dates in the year 2009. Thereafter, they were promoted to the post of Assistant as per reference number 61995/E2/1/2012-1 dated 25.10.2012 of the Directorate of Medical and Rural Health Services, Chennai. Pursuant to the same, they joined duty as Assistant on various dates during the year 2012-2013. The pay of the petitioners was refixed by proceedings dated 23.03.2018 of the Joint Director of Medical and Rural Health Services and Family Welfare as per G.O.No. 340, Finance (Pay Cell) Department dated 26.08.2010 in the said proceedings, taking into account the date of TNPSC group IV examination held in the year 2006-2007. Thereafter, as per memo bearing Na.Ka.No. 6551/ ஐஐ2 / 2019 dated 15.02.2021 of the Joint Director of Medical and Rural Health Services and Family Welfare



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dated 15.02.2021, the refixation done as per G.O.No. 340, Finance (Pay Cell) Department dated 26.08.2010 was decided to be not correct and as a result of which, recovery of payment already made to the petitioners was ordered.

3. The said order of recovery was challenged by the petitioners in W.P.(MD) No. 5580 of 2021 etc., batch cases and the said recovery order was quashed by the order passed by me on 28.07.2023. The plight of the petitioners is that, after the said recovery orders, the petitioners' increment have not been sanctioned from 01.10.2022. In this regard the petitioners have given representation to the respondents on various dates for sanction of increment from 01.10.2022. The Joint Director of Medical and Rural Health Services has sent the petitioners' representation and the orders of this Court, quashing the recovery proceedings dated 15.02.2021 of the Joint Director of Medical and Rural Health Services and Family Welfare and sought for clarification regarding sanction of increment, as per his proceedings dated 10.10.2023.



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4. The issue relating to the implementation of G.O. No. 340 dated 26.08.2010 has been clarified and well settled by the Honorable Division Bench of this Court time and again in W.A.No. 1836 of 2021 dated 04.08.2021, W.A.No. 186 of 2023 dated 02.02.2023 and finally by the present Honorable Chief Justice and me in W.A.(MD)Nos. 520 batch cases of 2023 on 01.12.2023. Therefore, the fixation of pay as per G.O.No. 340 dated 26.08.2010 to the petitioners is perfectly in order and well settled by the various judgments of the Honorable Division Bench of this Court and the same has been implemented by various departments. The details of the petitioner's service is tabulated as follows:

S.No.	Petitioner in Writ petition	Joined duty on	Promoted as Assistant on
1.	W.P.(MD)No.30570 of 2023	19.08.2009	26.10.2012
2.	W.P.(MD)No.30571 of 2023	28.08.2009	01.02.2013
3.	W.P.(MD)No.30572 of 2023	24.08.2009	15.11.2012
4.	W.P.(MD)No.30573 of 2023	10.08.2009	21.12.2012



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5. In the facts and circumstances of this case as discussed supra, the petitioners have filed these writ petitions seeking to direct the respondents to sanction their increment from 01.10.2022, as per the pay already fixed as per G.O.Ms.No. 340 Finance (Pay Cell) Department dated 26.08.2010 within a specified time frame.

6. The petitioners have filed W.M.P numbers as tabulated in the below tabular column in all the writ petitions seeking to implead the third and fourth respondents, that is, the Additional Chief Secretary to the Government Health and Family Welfare Department Secretariat Chennai-09 and the Additional Chief Secretary to the Government, Finance (Pay Cell) Department, Secretariat, Chennai-09 as third and fourth respondents in all the respective writ petitions and also to amend the prayer in all the writ petitions, directing the respondents 3 and 4 to sanction the petitioners increment from 01.10.2022 as per the pay already fixed as per G.O.Ms.No. 340 dated 26.08.2010. Both the WMPs filed in each of the writ petitions herein are allowed herewith and the respondents 3 and 4 are implemented as prayed by the writ petitioners respectively. Registry is directed to carry out the necessary amendments



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in the cause title.

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S.No.	Writ Petitions Nos.	To amend the prayer petition	To implead the third and fourth respondents petition
1.	W.P.(MD)No. 30570 of 2023	W.M.P.(MD)No. 2643 of 2024	W.M.P.(MD)No. 2644 of 2024
2.	W.P.(MD)No. 30571 of 2023	W.M.P.(MD)No. 2640 of 2024	W.M.P.(MD)No. 2638 of 2024
3.	W.P.(MD)No. 30572 of 2023	W.M.P.(MD)No. 2646 of 2024	W.M.P.(MD)No. 2645 of 2024
4.	W.P.(MD)No. 30573 of 2023	W.M.P.(MD)No. 2641 of 2024	W.M.P.(MD)No. 2636 of 2024

7. The petitioners representation to the respondents dated 24.06.2023 for sanction of increment from 01.10.2022 as per the pay already fixed as per G.O.Ms.No. 340 dated 26.08.2010 is kept in abeyance without consideration by the third and fourth respondents for more than six months.

8. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate



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orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

9. In view of the same, this Court hereby direct the third and fourth respondents to sanction the petitioners' increment from 01.10.2022 as per the pay already fixed as per G.O.Ms.No. 340 Finance (Pay Cell) Department, dated 26.08.2010 within a period of twelve (12) weeks from the date of receipt of a copy of this order in line of the Judgment passed by the Honorable Division Bench of this court in W.A.(MD)Nos. 520 of 2023 etc., batch dated 01.12.2023.

10. Accordingly, these writ petitions are allowed. No costs.

12.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

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To
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1. The Director of Medical and Rural Health Services,
DMS Campus,
Teynampet,
Chennai-600 006.
2. The Joint Director of Medical and Rural Health
Services and Family Welfare,
Theni @ Periyakulam,
Theni District.
3. The Additional Chief Secretary
to Government,
Health and Family Welfare
Department,
Secretariat, Chennai-600 009.
4. The Additional Chief Secretary
to Government,
Finance (Pay Cell) Department,
Secretariat, Chennai-600 009.



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L.VICTORIA GOWRI, J.

Sml

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