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WP No. 2333 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-12-2025

CORAM

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.2239, 2333 and 8379 of 2024

and

W.M.P.Nos. 2430, 2520, 9334 and 2428 of 2024

W.P.No.2333 of 2024

1. C.Ravi Kumar
(Assistant) Director Office,
Director Of Animal Husbandry And
Veterinary Services, Chennai 35

Petitioner(s)

Vs

1. The Government Of Tamil Nadu
Rep. By The Secretary, Finance
Department, Secretariat, Fort St.
George, Chennai 9

2.The Director
O/o. Director Of Animal Husbandry
And Veterinary Services, 571 Anna
Salai, Nandanam, Chennai 35

3.The Joint Director (Administration)
O/o. Director Of Animal Husbandry
And Veterinary Services, 571 Anna



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Salai, Nandanam, Chennai 35

Respondent(s)

W.P. No. 8379 of 2024

1. D.Chandran
(Junior Assistant) Assistant Director Of
Animal Husbandry And Veterinary
Department Tindivanam 604 001

Petitioner(s)

Vs

1. The Government Of Tamilnadu
Rep By The Secretary, Finance
Departments, Secretariat, Fort St.
George Chennai 600 009

2.The Director
O/o Director Of Animal Husbandry
And Veterinary Services 571 Anna
Salai, Nandanam Chennai 600 035

3.The Assistant Director
O/o Assistant Director Assistant
Director Of Animal Husbandry And
Veterinary Department Tindivanam 604
001

Respondent(s)

W.P.No. 2239 of 2024

1. M.Kaladevi
W/o.I.Raman Kutti, No.53, R.M.V.
Nagar, Thiruvottiyur, Chennai-600 019.



Petitioner(s)

Vs

WEB COPY

1. The Government Of Tamilnadu
Rep. By The Secretary, Finance
Department, Secretariat, Fort St. George,
Chennai-600 009.

2.The Director
O/o.Director Of Animal Husbandry And
Veterinary Services, 571, Anna Salai
Nandanam, Chennai-600 035.

3.The Joint Director (Administration)
O/o.Director of Animal Husbandry And
Veterinary Services, 571,
Anna Salai Nandanam, Chennai-600 035.

Respondent(s)

W.P. No. 2333 of 2024

PRAYER

The Writ Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus calling for records of the order passed by the 3rd respondent in proceeding in Na.Ka.No. 9011/ R1/ 2023- 1 dated 9.10.2023 and the consequential recovery proceedings of the 3rd respondent in Na.Ka.No. 9011/ R1/ 2023- 1 dated 30.10.2023 and to quash the same and consequently, direct the respondents herein to re-fix petitioner salary giving the Fitment benefit on par with the persons recruited by the Tamil Nadu Public Service Commission in the same batch (2009 Batch) along with petitioner with all consequential benefits.

W.P. No. 8379 of 2024

PRAYER



The Writ Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus calling for records of the order passed by the 3rd respondent in proceeding in Na.Ka.No 97 / AA / 2024 dated 06.03.2024 and to quash the same and consequently direct the respondents herein to re-fix my salary giving the Fitment benefit on par with the persons recruited by the Tamil Nadu public service commission in the same batch (2009 batch) along with petitioner with all consequential benefits.

W.P. No. 2239 of 2024

PRAYER

The Writ Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus calling for records of the order passed by the 3rd respondent in proceeding in Na.Ka. No.9011/ R1/ 2023-1 dated 09.10.2023 and the consequential recovery proceedings of the 3rd respondent in Na.Ka. No.9011/ R1/ 2023-2 dated 30.10.2023 and to quash the same and consequently direct the respondents herein to re-fix petitioner salary giving the Fitment benefit on par with the persons recruited by the Tamil Nadu Public service commission in the same batch (2009 Batch) along with petitioner with all consequential benefits.

For Petitioner(s): Mr. G. Arumugaraja
in all W.Ps.

For Respondent(s): Mr. R. U.Dinesh Raj Kumar
in all W.Ps. Additional Government Pleader

COMMON ORDER

The present Writ Petitions have been filed to set aside the impugned recovery orders and consequently, to direct the respondents herein to re-fix the



petitioners' salary by granting the Fitment benefit on par with the persons recruited by the Tamil Nadu public service commission in the same batch (2009 batch) along with all consequential benefits.

2. The case of the petitioner in W.P.No.2333 of 2024 is that the petitioner appeared for the Group IV Service Special Competitive Examination in the year 2007 conducted by the Tamil Nadu Public Service Commission on 17.02.2008 and the marks obtained in the written examination was published on 16.07.2008 and on 22.12.2009, thereby, the petitioner was selected as Junior Assistant and posted in the Animal Husbandry Department and he successfully completion his probation period on 19.02.2012 and subsequently, promoted as Assistant w.e.f.14.11.2015. Further, vide G.O.Ms.No.258, Finance (PC) Department, dated 23.06.2009, Fitment benefit was allowed to the new recruits appointed between 01.01.2006 and 31.05.2009. To rectify the anomaly and to compensate the monetary loss incurred by the employees recruited by the Tamil Nadu Public Service Commission in the same batch in the year 2009 and the persons appointed after 01.06.2009, due to administrative reasons, the Government had



issued G.O.Ms.No.340, Finance (Pay Cell) Department, dated 26.08.2010

allowing Fitment benefit to such individual employees concerned as a special case and subsequently, the 3rd respondent vide proceedings dated 09.10.2025 directed to cancel the pay fixation made wrongly to the persons appointed after 01.06.2009 giving fitment benefit under G.O.Ms.No.340, Finance (pay cell) Department, dated 26.08.2010 and thereafter, the 3rd respondent, by its order dated 30.10.2023, revised the scale of pay and taken an action to recover the excess amount that was paid to the petitioner. Subsequently, the petitioner had retired from service in the year 2024.

3. The case of the petitioner in W.P.No.2239 of 2024 is that the petitioner appeared for the Group IV Service Special Competitive Examination in the year 2007 conducted by the Tamil Nadu Public Service Commission on 17.02.2008 and the marks obtained in the written examination was published on 16.07.2008 and on 22.12.2009, thereby, the petitioner was selected as Junior Assistant and posted in the Animal Husbandry Department and he successfully completion his probation period on 19.02.2012 and subsequently, promoted as Assistant w.e.f.



23.02.2015. Further, vide G.O.Ms.No.258, Finance (PC) Department, dated 23.06.2009, Fitment benefit was allowed to the new recruits appointed between 01.01.2006 and 31.05.2009. To rectify the anomaly and to compensate the monetary loss incurred by the employees recruited by the Tamil Nadu Public Service Commission in the same batch in the year 2009 and the persons appointed after 01.06.2009, due to administrative reasons, the Government had issued G.O.Ms.No.340, Finance (pay cell) Department, dated 26.08.2010 allowing Fitment benefit to such individual employees concerned as a special case and subsequently, the 3rd respondent vide proceedings dated 09.10.2025 directed to cancel the pay fixation made wrongly to the persons appointed after 01.06.2009 giving fitment benefit under G.O.Ms.No.340, Finance (pay cell) Department, dated 26.08.2010 and thereafter, the 3rd respondent, by its order dated 30.10.2023, revised the scale of pay and taken an action to recover the excess amount that was paid to the petitioner. Subsequently, the petitioner had retired from service in the year 2023.

4. The case of the petitioner in W.P.No.8379 of 2024 is that the petitioner



appeared for the Group IV Service Special Competitive Examination in the year 2007 conducted by the Tamil Nadu Public Service Commission on 17.02.2008 and the marks obtained in the written examination was published on 16.07.2008 and on 22.12.2009, thereby, the petitioner was selected as Junior Assistant and posted in the Animal Husbandry Department and he successfully completion his probation period on 06.02.2012. Further, vide G.O.Ms.No.258, Finance (PC) Department, dated 23.06.2009, Fitment benefit was allowed to the new recruits appointed between 01.01.2006 and 31.05.2009. To rectify the anomaly and to compensate the monetary loss incurred by the employees recruited by the Tamil Nadu Public Service Commission in the same batch in the year 2009 and the persons appointed after 01.06.2009, due to administrative reasons, the Government had issued G.O.Ms.No.340, Finance (pay cell) Department, dated 26.08.2010 allowing Fitment benefit to such individual employees concerned as a special case and subsequently, the 3rd respondent vide proceedings dated 09.10.2025 directed to cancel the pay fixation made wrongly to the persons appointed after 01.06.2009 giving fitment benefit under G.O.Ms.No.340, Finance (pay cell) Department, dated 26.08.2010 and thereafter, the 3rd



respondent, by its order dated 06.03.2024, revised the scale of pay and taken an action to recover the excess amount that was paid to the petitioner.

Subsequently, the petitioner had retired from service in the year 2025.

5. However, the grievance of the petitioner is that the present impugned recovery order was passed without issuing any notice to the petitioners that too the petitioners are Class-IV employees. Subsequently, the petitioners also retired from service.

6. The learned counsel for the petitioners placed reliance on the decision of the Hon'ble Supreme Court in the case of *State of Punjab & Others etc. Vs. Rafiq Masih (White Washer) and Others*, reported in *2015 (4) SCC 334* and submitted that when the excess payment has been made for the period in excess of five years, owing to the mistake of the Department, the recovery is impermissible.



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7. He further submits that the impugned orders are in violation of the principles of natural justice since no prior notice was issued, calling for the petitioner's objections on the proposed recovery by the respondents herein cannot unilaterally resort to recover the alleged excess payment.

8. Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the materials placed before this Court.

9. The very same issue was challenged before the Madurai Bench of the Madras High Court in W.P.(MD) Nos.1270 and 1337 of 2020, wherein, by order dated 13.10.2022, in paragraph Nos.11, 12 and 13, it has been held as follows:-

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 given the



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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:-



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(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 i.e. 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 i.e., 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.”

10. The said order was challenged by the State before the Division Bench in W.A.(MD) Nos.520, 521, 1412, 1536 and 1585 of 2023, and the Division Bench, vide order dated 01.02.2023, dismissed the Writ Appeal. Thereafter, the Review Application (MD) Nos.103 of 2024 and 62 to 65 of 2025 filed by the State were also dismissed.

11. Further, the Hon’ble Supreme Court, in the case of *White Wahser*



(*supra*), had categorically held that the recovery of excess salaries from the employees belonging to Class III and Class IV service is impermissible in law.

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12. It is settled proposition that the principles of natural justice requires issuance of prior show cause notice, proposing such a recovery and calling for the objections of the employees on the proposal. In the absence of such a show cause notice, the order of recovery cannot be sustained. On this ground also, the impugned order is liable to be set aside.

13. In view of the above, the impugned orders are set aside and the Writ Petitions are allowed. The respondents are directed to re-fix petitioners' salary by granting the Fitment benefit on par with the persons recruited by the Tamil Nadu Public service commission in the same batch (2009 Batch) along with all consequential benefits, within a period of six (6) weeks from the date of receipt of a copy of this order. The respondents shall also pay the pension amount and settle the retirement benefits, if not already disbursed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

01-12-2025



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Index : Yes/No

Speaking/Non-speaking order

Internet : Yes

Neutral Citation : Yes/No



To

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1. The Secretary, Finance Department,
Secretariat, Fort St. George,
Chennai – 600 009
2. The Director
O/o. Director Of Animal Husbandry and
Veterinary Services,
571 Anna Salai, Nandanam, Chennai 35
3. The Joint Director (Administration)
O/o. Director Of Animal Husbandry And
Veterinary Services, 571 Anna Salai,
Nandanam, Chennai 35.
4. The Assistant Director
O/o The Animal Husbandry and Veterinary Department
Tindivanam 604 001.



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M. DHANDAPANI, J.

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and
W.M.P.Nos. 2430, 2520, 9334 and 2428 of 2024**



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