

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on  
15.04.2025

Pronounced on  
25.04.2025

CORAM

**THE HONOURABLE MR JUSTICE RMT. TEEKAA RAMAN**

**WP No. 40665 of 2015**

**and**

**WP No. 40666 OF 2015**

**WP No. 40665 of 2015**

1.P.Radhakrishnan (DECEASED)

2.Vanitha Radhakrishnan,

W/o.Late P.Radhakrishnan,

1/409-1, Sakthi Nagar,

Dharmapuri Main Road, Kottamettupatti, Omalur,

Salem- 636 455.

3.Gowri Shankar Radhakrishnan,

S/o.Late P.Radhakrishnan,

1/409-1, Sakthi Nagar,

Dharmapuri Main Road, Kottamettupatti, Omalur,

Salem- 636 455.

4.R.Kiruthika,

D/o.Late P.Radhakrishnan,

3/383, Jodukuli, Kundukkal,

Salem- 636 351.

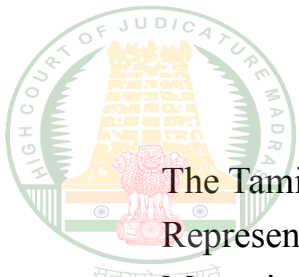
*(P2 to P4 are Substituted as LRs of Deceased P1, as*

*per order dated 07.03.2024 in WMP.2005 &*

*2008/2024 in WP.40665/2015 by DNRJ)*

Petitioner(s) in both Petitions

Vs



The Tamil Nadu Magnesite Limited,  
Represented by its Chairman cum  
Managing Director,  
5/53, Omalur Main Road,  
Jagir Ammapalayam Post,  
Salem-636002.

Respondent(s) in both petitions

**WP No. 40665 of 2015**

**PRAYER**

Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Mandamus to direct the respondent herein to rectify the anomaly in pay of the petitioner on par with the juniors and consequently grant the revision of pay and grant monetary benefits with effect from 01.01.2006.

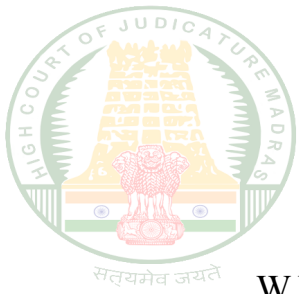
**WP No. 40666 of 2015**

**PRAYER**

Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Mandamus to direct the respondent herein to extend the benefits of the G.Os. namely G.O. (Ms) No.664, dated 24.08.1992 issued by the Finance (Pay Cell) Department and G.O.Ms. No.497 dated 15.09.1998 issued by the Finance (Pay Cell) Department and consequently grant 5% personal pay as on 01.08.1992 and 01.09.1998 respectively.

For Petitioner(s): Ms.C.S.Monica  
(in both Petitions)

For Respondent(s): Mr.R.Balaramesh.  
(in both Petitions)



## **COMMON ORDER**

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W.P.No.40665 of 2015 has been filed to direct the respondent herein to rectify the anomaly in pay of the Petitioner on par with the juniors and consequently grant the revision of pay and grant monetary benefits with effect from 01.01.2006.

2.W.P.No.40666 of 2015 has been filed to direct the respondent herein to extend the benefits of the G.Os. namely G.O. (Ms) No.664, dated 24.08.1992 issued by the Finance (Pay Cell) Department and G.O.Ms. No.497 dated 15.09.1998 issued by the Finance (Pay Cell) Department and consequently grant 5% personal pay as on 01.08.1992 and 01.09.1998 respectively.

### **W.P.No.40665 of 2015:**

3.The original petitioner was appointed as Junior Assistant / Typist vide Letter Lr.No. 1(2)/3568/85-86 dated 03.09.1985 on compassionate ground and he joined duty on 04.09.1985 and thereafter, he was regularised on 09.10.1987 with scale of pay of Rs.610-20-730-25-955-30-1075. The original petitioner was promoted as Packing House in charge (Senior Grade) with effect from 04.09.2005 and was paid a basic pay of Rs. 6,950/-. He expired on 02.02.2017. The daughter of the original petitioner (who was also appointed on compassionate ground), the 4<sup>th</sup> petitioner herein, was appointed as Junior Assistant on compassionate grounds vide proceedings of CMD



No.El/Genl/Rect./Compassionate Ground/2017 dated 01.01.2018.

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4.Learned counsel for the original petitioner would contend that in G.O.(Ms).No.664, Finance (Pay Cell) Department dated 24.08.1992, the Government has sanctioned personal pay at five percent of the basic pay to all categories of staff, who are all employees of local bodies and non-teaching staff of aided educational institutions and seeks similar relief.

5(a).Based upon the counter affidavit, the learned standing counsel for the respondent would submit that the respondent is the Tamil Nadu Magnesite Limited, which is registered under the Companies Act, 1956 managed by Board of Directors. It is involved in mining process of magnesite mineral in Salem region. It is a settled proposition of law that a G.O., is applicable to the Public Sector Undertaking only after placing it in the Board and getting due approval from majority of Directors. As the respondent being a Public Sector Undertaking, registered under Company Act 1956, G.O., cannot be applicable without being adopted by due process by the Board of Directors.

5(b).Learned standing counsel for the respondent would further submit that the adoption of G.Os, especially, with respect to emoluments or any context with financial implications depends on the then financial position/status of the company. During the year 1991-92 and 1992-93, the company was facing



severe loss and was even unable to pay the salary of the employees. It is also brought to the notice of the this Court that as a result, more than 500 employees were given voluntary retirement. In such situation, the company was not in the state of adopting G.Os with financial implications. In the year 1995-96 based on the Government orders in G.O. Ms. No.304. Finance (Pay Commission) Department dated 28.03.1990 relating to Selection Grade and Special Grade, Selection Grade was given with effect from 1.1.1996 fixing the original petitioner's pay in the next scale of pay for completion of 10 years of service. Hence the original petitioner was not considered for Selection Grade by granting the benefit of one increment equal to 3% of the basic pay + Grade Pay as per G.O.Ms.No.237, dated 22.7.2013. Then the original petitioner was promoted as Senior Grade Packing House incharge on 04.09.2005. Since the original petitioner was promoted to the next level, the benefit of Special Grade had not been extended to the original petitioner.

5(c).The learned standing counsel for the respondent would further submit that Thiru.K.Mahendran, Chemist gave a representation seeking rectification of anomaly as he was drawing a lesser pay than his junior. The respondent found that the anomaly arose due to implementation of amended Service Rules in respect of revised scale of pay for Selection Grade/Special Grade on par with that of the Government servants. Hence the proposal was placed before the Board in 160<sup>th</sup> Board Meeting on 19.12.2008. To rectify the



anomaly, the Board decided to move on to one higher scale to the original petitioner as that of the juniors. In the employees list whose pay was revised to one higher scale, the original petitioner's name was also included as that of Thiru.K.Mahendran and the original petitioner's pay also revised to next higher scale from Rs.5000-150-8000/- to Rs.5500-175-9000 with basic pay of Rs.7425/-.

6.It is not in dispute that earlier G.O., was modified in G.O.Ms. No.497 dated 15.09.1998 to grant personal pay to employees of ministerial categories at the rate of 5% of basic pay as on 01.09.1998 to all employees, who have already been granted with 5% personal pay prior to 01.01.1996. Admittedly, TANMAG in its own proceedings implemented personal pay benefits to the Stenographers alone and for Junior Assistants like original petitioner, the said G.O., was not adopted. In the 185<sup>th</sup> Board meeting held on 09.09.2014, G.O.(Ms) No.143, Finance (Pay cell) dept, dated 03.06.2014 was placed before the Board for adoption and after assorted discussions and due consideration, the Board accepted to adopt the said G.O and the same had been implemented by the company granting personal pay to all Steno Typists.

7.In other words, the Board has accepted the implementation of G.O., only in respect of Stenographers. Admittedly, the original petitioner was appointed as Junior Assistant and hence he is not entitled to the benefits of



G.O., or extended to the eligible Stenographers after issuance of notification, after placing before the Board for adoption of the G.O. In the instant case, the Board has not adopted for the reasons therein and hence, once the Board has not adopted, the original petitioner is not entitled to the relief sought for in this Writ Petition.

W.P.No.40666 of 2015:

8.The original petitioner was appointed as Junior Assistant / Typist vide Letter Lr.No.1(2)/3568/85-86 dated 03.09.1985 on compassionate ground and he joined duty on 04.09.1985 and thereafter he was regularised on 09.10.1987 with a scale of pay of Rs.610-20-730-25-955-30-1075. The original petitioner was promoted as Packing House incharge (Senior Grade) with effect from 04.09.2005 and was paid a basic pay of Rs. 6,950/-. He expired on 02.02.2017. The daughter of the original petitioner (who was also appointed on compassionate ground), the 4<sup>th</sup> petitioner herein, was appointed as Junior Assistant on compassionate grounds vide proceedings of CMD No.E1/Genl/Rect./Compassionate Ground/2017 dated 01.01.2018. The Government issued a G.O. (Ms) No. 664. Finance (Pay Cell) Department dated 24.08.1992 and sanctioned personal pay at five percent of the basic pay to all categories of staff who are all employees of local bodies and non- teaching staff of aided educational institutions.



9. Based upon the counter affidavit the learned standing counsel for the respondent would submit that the respondent is Public Sector undertakings and G.O., could be applicable only after the approval of the Board by majority of Directors as required by the Companies Act and the G.O., cannot be applicable without being adopted due process by the Board of Directors. The adoption of G.O., especially in respect of emoluments or any context with financial implications depends on the then financial position/status of the company at the relevant period of time. During the year 1991-92 and 1992-93, the company was facing severe loss and was even unable to pay salary of the employees. It is also brought to the notice of this Court that as a result, more than 500 employees were given voluntary retirement. In such situation, the company was not in the state of adopting G.Os with financial implications.

10. Heard the learned counsel appearing on either sides and perused the available records.

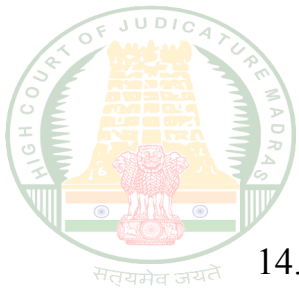
11. From the counter affidavit, this Court finds that in the year 1995-96 based on the Government orders in G.O. Ms. No.304. Finance (Pay Commission) Department dated 28.03.1990 relating to Selection Grade and Special Grade, Selection Grade was given with effect from 1.1.1996 fixing his pay in the next scale of pay for the completion of 10 years of service. Hence the original petitioner was not considered for Selection Grade by granting the



benefit of one increment equal to 3% of the basic pay + Grade Pay as per G.O.Ms.No.237, dated:22.7.2013. Then the original petitioner was promoted as Senior Grade Packing House incharge on 04.09.2005. Since the original petitioner was promoted to the next level, the benefit of Special Grade had not been extended to the original petitioner.

12.It remains to be stated that modifying the G.Os that has been issued earlier, the Government issued a G.O. (MS) No. 497, Finance (Pay Cell) Department dated 15.09.1998 and decided to grant personal pay to the employees of ministerial categories at the rate of 5% of basic pay as on 01.09.1998 as an alternative to all employees who have already been granted with 5% personal pay prior to 01.01.1996.

13.As submitted by the learned standing counsel for the respondent in the 185<sup>th</sup> Board meeting held on 09.09.2014, G.O.(Ms) No.143, Finance (Pay cell) dept, dated 03.06.2014 was placed before the Board for adoption and after assorted discussions and due consideration, the Board accepted to adopt the said G.O and the same had been implemented by the company granting personal pay to the Steno Typists Tmt.R.Kanagalakshmi, Junior Steno (Special Grade), Thiru.P.Kanadasamy, Junior Steno, and Tmt.C.Suryakala, Junior Steno. Since the original petitioner was appointed as Junior Assistant the Board has not approved the benefits for extend it to Junior Assistants.



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14. Therefore, stand of the company is that benefit of the G.O., were extended to the eligible Stenographers after the issuance of notification from the Finance (BPE) department in letter No.38409/Finance (BPE)/2014 dated 16.07.2014 and after placing it before the board for adoption of G.O.

15.A Government Order becomes applicable to Public Sector undertakings only if it is mentioned that it is applicable to the employees of the Public Sector undertakings and the same being duly adopted by placing it in the Board and consented by majority of Directors. Hence the original petitioner is not entitled to the relief sought for in this Writ Petition.

16. Accordingly, these Writ Petitions are dismissed. No costs.

**25.04.2025**

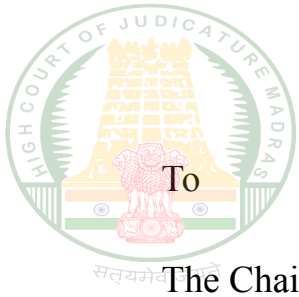
Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

*sai*



WP Nos. 40665 & 40666 of 20



To

The Chairman cum Managing Director  
Tamil Nadu Magnesite Limited,  
5/53, Omalur Main Road,  
Jagir Ammapalayam Post,  
Salem-636002.



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WP Nos. 40665 & 40666 of 20



**RMT.TEEKAA RAMAN J.**

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Pre-delivery order made in  
**WP No. 40665 & 40666 of 2015**

**Dated:**  
**25.04.2025**