



W.P. No.27080 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

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- 1.H.Ganesan
- 2.A.V.Gnansekaran
- 3.L.Sridar
- 4.A.Thangavel
- 5.P.Narayanasami
- 6.V.Sukumar
- 7.S.Purushothaman
- 8.P.Kalaimani
- 9.P.S.Thirumalaisamy
- 10.P.Rangaswami
- 11.K.V.Rajasekaran
- 12.R.Rajasekaran
- 13.S.Srinivasan
- 14.R.Sriramulu
- 15.S.Dharmasivam
- 16.K.Selvaraj
- 17.V.Chidambaram

... Petitioners

Vs.

- 1.The Government of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Rural Development & Panchayat Raj Department,
Fort St. George, Chennai – 600 009.
- 2.The Director of Rural Development & Panchayat Raj ,
Panagal Building,
Saidapet, Chennai-600 015.



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3.The Principal Accountant General(A & E) Tamil Nadu,
No.361, Anna Salai,
Chennai-600 018

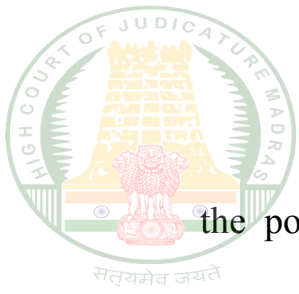
...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the second respondent in his proceedings bearing Rc.No.14656/2016/GE 1-3 dated 16.06.2016 and quash the same in so far relates to the petitioners and further direct the second respondent to fix the basic scale of pay of the petitioners in the cadre of Joint Director of Rural Development as R.22,320/- + Rs.7,600 GP on their promotion and consequently refix their pay in the cadre of Joint Director of Rural Development and revise their pension with all attendant benefits.

For Petitioners : Mr.K.S.Viswanathan
For R1 & R2 : Mr.P.Ganesh
Additional Government Pleader
For R3 : Mr.Selvaraji

ORDER

The short question that would arise for consideration in the Writ Petition is whether the petitioners herein, who were working as Assistant Directors of Rural Development on the date of commencement of the revised scales of pay, 2009, with effect from 01.01.2006, and were later promoted to



the post of Joint Directors in the same department after 01.06.2009, are entitled to the benefit of pay fixation in terms of Rule 10 of the Rules, 2009, or not?.

2. The few relevant facts for the disposal of this writ petition are as under:-

(i) The petitioners herein were working as Assistant Directors of Rural Development as of 01.01.2006. Subsequently, on coming into force of the Tamil Nadu Revision of Scales of Pay of 2009, with effect from 01.01.2006 and with monetary benefits from 01.01.2007, their pay in the post of Assistant Director was accordingly revised in terms of Rules, 2009. Thereafter, the petitioners were promoted to the post of Joint Director after 01.06.2009.

(ii) Thereafter between 2010 and 2013, all the petitioners retired from service on attaining at the age of superannuation. On their promotion to the post of Joint Director, they were granted one increment and their pay was fixed accordingly. The petitioners then made a claim for fixation of pay in terms of Rule 10 of Rules, 2009. However, the said claim was rejected by the



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second respondent through the impugned proceedings bearing No. Rc.No.14656/2016/GE 1-3 dated 16.06.2016, on the ground that the benefit of Rule 10, Rules, 2009 is not available to the Assistant Directors who were promoted as Joint Director after 01.06.2009.

3. Aggrieved by the said proceedings dated 16.06.2016, the petitioners have approached this Court by filing the present writ petition.

4. The first and second respondents filed a counter affidavit reiterating the reason stated in the impugned proceedings. They also contended that since all the petitioners had already availed the benefit of pay fixation under the Tamil Nadu Revised Scale of Pay Rules, 2009, in the post of Assistant Director of Rural Development, they are not entitled to fixation of pay on their promotion to the post of Joint Director of Rural Development and also contending that the petitioners who were promoted to the post of Joint Director of Rural Development after 01.06.2009, are not eligible for the benefit of pay fixation under Rule 10 of Rules, 2009. The third respondent, in a separate counter affidavit, reiterated the stance of the first and second



respondents. To resolve the issue, it is necessary to examine the scope and ambit of Rule 10 of the Rules, 2009, which read as follows:-

“10.Fixation of Pay on Promotion on or after 1-1-2006.

In the case of promotion from one grade pay to another in the revised pay structure, the fixation shall be done in the manner given below:-

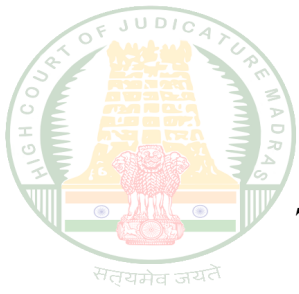
One increment equal to three per cent of the sum of the pay in the pay band and the existing grade pay shall be computed and rounded off to the next multiple of 10. This will be added to the existing pay in the pay band. The difference in grade pay corresponding to the promotion post and the feeder post will thereafter be granted in addition to this pay in the pay band. In cases where promotion involves change in the pay band also, the same methodology shall be followed. However, if the pay in the pay band after addition of the increment is less than the minimum of the higher pay band to which promotion is taking place, pay in the pay band will be stepped to such minimum”

5. On perusal of the above Rule, there is nothing to suggest that the



said Rule does not apply to Assistant Directors promoted to the post of Joint Director after 01.06.2009. On the other hand, the said Rule is specifically made applicable to all cases of promotion from one grade pay to another in the revised pay structure on or after 01.01.2006. The Rule is very clear and applies to the fixation of pay on promotion on or after 01.01.2006. There is no justification for the second respondent to restrict its application to promotions made on or before 01.06.2009. Thus, the reasoning assigned in the impugned proceedings is totally arbitrary and a result of non application of mind. Further, there is yet another issue to be addressed.

6. The counter affidavit filed by the first and second respondents stating that the petitioners, having availed the benefit of pay fixation under Rules, 2009, in the post of Assistant Director, are not entitled to pay fixation on promotion does not stand to legal scrutiny. The revision and fixation of pay on promotion on or after 01.01.2006 are distinct process. The petitioners are not seeking for pay fixation again for the post of Assistant Director, rather, they are claiming pay fixation on their promotion to the post of Joint Director.



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7. The last limb of the Rule 10 provides for stepping up of the pay scale of the Joint Director on promotion to the minimum higher pay band to which the promotion is effected. It is this benefit that the petitioners are claiming. Thus, the reason assigned in the impugned order as well as in the counter affidavit, for not extending the benefit of Rule 10 of the Rules 2009, to the petitioners for fixation of pay on promotion to the post of Joint Director, Rural Development is totally unsustainable. Furthermore, the stance of the second respondent that the petitioners are not entitled to the benefit of Rule 10 is also equally unsustainable, and the impugned order is liable to be quashed.

8. As a matter of fact, when the application of Rule 8 of the Rules 2009, came up for consideration, a Division Bench of this Court had an occasion to consider the same in Writ Appeal No.42 of 2015 and batch. The learned Division Bench, by order dated 18.07.2023, held as under:-

“35.What are all the benefits that has been earned by the similarly placed persons pursuant to VI pay Commission Recommendation, which has been made as a Rule under G.S.Ms.No.234 as



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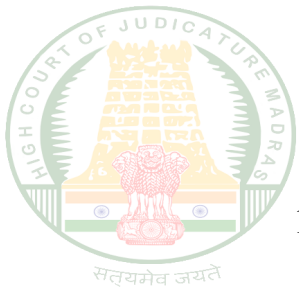


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referred to above, are to be extended to the similarly placed persons. These employees are though similarly placed persons could not exercise their option because they did not earn the promotion before 31.05.2009. Merely because they earned promotion after 31.05.2009, their right of getting the enhanced pay or a revised pay cannot be denied. Therefore, the said clarification given in this regard by the aforesaid letters viz., letter dated 06.08.2009 and 17.08.2009 since is not inconsonance with the Rule, which was rightly struck down by the learned Judge through the impugned orders and giving extension of such benefits to these employees.”

9. In the light of the above, the impugned order is hereby quashed.

The matter is remanded to the first and second respondents for reconsideration of the petitioners' claim, duly applying Rule 10 of the Rules, 2009 as issued in G.O.Ms.No.234 Finance (Pay Cell) Department, dated 01.06.2009 and for passing appropriate consequential orders as expeditiously as possible and in any case, within eight weeks from the date of receipt of a copy of this order.



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10. In the light of the concession made by the learned counsel Mr.T.S.Viswanathan, the petitioners shall not be entitled to the payment of any arrears in the event of refixation of pay in terms of this orders. They shall only be entitled to the payment of revised pension from the date of order passed by the respondent.

11. Accordingly, this Writ Petition stands disposed of. There shall be no order as to costs.

31.01.2025

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Index : Yes/No

Speaking Order : Yes/No

To:

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Fort St. George, Chennai – 600 009.
- 2.The Director of Rural Development & Panchayat Raj ,
Panagal Building,
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