



WP Nos.13933,13936
& 13938 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07-2025

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

**WP Nos. 13933, 13936 & 13938 OF 2024,
WMP NOS.15127, 15130 & 15132 OF 2024,
WMP NOS.24280, 24277 & 24272 OF 2024,
WMP NOS. 34788, 34794 & 34803 OF 2024**

1. K.Kasthuri

W/o.R.Kannan, No.7 Annapoorni
Nagar, Ii Main Road, Ponniyamman
Medu, Chennai 600110.

Petitioner(s)

Vs

1. The Designated Officer
Food Safety Department, Ii Floor,
Collectorate Main Complex,
Thiruvallur District.

Respondent(s)

WP No. 13936 of 2024

1. V.Ravichandran
S/o.P.Venkatraman, No.4/5 11th Street,
Sri Devi Nagar, Kattupakam,
Chennai 600056.

Petitioner(s)

Vs



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& 13938 of 2024

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1. The Designated Officer
Food Safety Department, Ii Floor,
Collectorate Main Complex,
Thiruvallur District.

Respondent(s)

WP No. 13938 of 2024

1. R.Velavan
S/o.P.Ramanujam, No.22 Nanbargal
Nagar I Street, Poonammallee, Chennai
600056.

Petitioner(s)

Vs

1. The Designated Officer
Food Safety Department, Ii Floor,
Collectorate Main Complex,
Thiruvallur District.

Respondent(s)

COMMON PRAYER

Writ Petitions filed under Article 226 of the Constitution of India, praying to Call for the records relating to the respondent herein in Na.Ka.No.130/A1/2023 dated 8.5.2024 and quash the same and consequently direct the respondent herein to confer all the attendant benefits with due regards to petitioners' seniority.

For Petitioner(s): Mr. R.S.Anandan

In all WPs.

For Respondent(s): Mr.P.Kumaresan

In all WPs.

AAG assisted by

Mr.Tippu Sultan

G.A



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COMMON ORDER

The issue involved in all the three writ petitions arising against the same order, hence, all the three writ petitions are taken together for disposal.

2. Heard Mr.R.S.Anandan, learned counsel for the petitioner and Mr.P.Kumaresan, learned Additional Advocate General assisted by Mr.Tippu Sultan, learned Government Advocate appearing for the respondent.

3. According to the petitioners, they joined as Sanitary Inspector/Health Inspector on 06.02.2009, 03.04.2008 & 18.06.2007 respectively by direct recruitment through the Employment Exchange. It is the submission of the petitioners that, thereafter they were redeployed as Food Safety Officer on 29.09.2011, 29.12.2011 & 03.11.2011 respectively. It is the specific contention of the petitioners that the scale of pay of the Sanitary Inspector and the Food Safety Officer are the one and the same and the only difference is, the Grade Pay. The Sanitary Inspector/Health Inspector gets Grade Pay of Rs.4,200/-, whereas, the Grade Pay of the Food Safety Officer is Rs.4,400/-. It is the specific submission of the petitioners that, though he rightly granted the Selection Grade vide proceedings dated 10.04.2023, subsequently, erroneously cancelled the same. It is the contention of the petitioners that as the post of Health Inspector and Food Safety Officer having the same scale of pay for



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considering for the Selection Grade, their initial appointment has to be taken into consideration, which according to the petitioners was rightly done by the respondent vide G.O.Ms.No.68 dated 23.01.1986. But, subsequently, contrary to the said G.O, the respondent has passed the impugned order dated 08.05.2024. Hence, prayed to interfere with the same.

4. Per contra, Mr.P.Kumaresan, learned Additional Advocate General assisted by Mr.Tippu Sultan, learned Government Advocate, would contend that the post of Health Inspector and Food Safety Officer are having different Grade Pay viz., Food Safety Officer is having higher Grade Pay of Rs.4,400/-, whereas, the Health Inspector Grade Pay is Rs.4,200/-. As such, the Food Safety Officer Post is a promotional post to the Health Inspector. Therefore, while calculating the Selection Grade, the two posts cannot be taken together, whereas by wrongly interpreting the Government Order, the respondent had at the first instance issued the order and when he came to know about the mistake, the respondent corrected the same through the impugned order. Hence, would contend that there is no ground to interfere with the impugned order.

5. I have given my anxious consideration to either side submissions.

6. The main contention put forth by the learned counsel for the petitioner is that, before issuing the impugned order, the respondent did not issue any



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notice. As we all know, *audi alteram partem* is a fundamental principle in administrative jurisprudence. But, such right can not be stated as an inviolable right in all the circumstances. In the case in hand, based upon the petitioners' request, an order granting selection grade was passed on 10.04.2023, But, after came to know about the error in the order dated 10.04.2023, subsequently, the impugned order was passed on 08.05.2024. It only refers that the correction of earlier order, but the fact remains that there is a direction to recover the excess pay drawn by the petitioners.

7. Before we discuss about the recovery, it is appropriate to deal as to whether the reason adduced by the respondent for passing the impugned order is justifiable or not. It is an admitted fact that the Sanitary Worker is having the Grade Pay of Rs.4,200/- and the Food Safety Officer is having Grade Pay Rs.4,400/-. It is also an admitted fact that the petitioners were appointed as Food Safety Officer by redeployment from the post of Health Inspector/Sanitary Inspector on a scale of pay of Rs.9300-34800 + G.P. Rs.4,400. As rightly contended by the learned counsel for the petitioner, except the Grade pay, the other pay matrix are identical viz., 9300-34800 between or the post of Food Safety Officer and Health Inspector (Grade I).

8. Taking cue from the above position, the learned counsel for the petitioner relied upon the Government Order in G.O.Ms.898 P & AR



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Department dated 23.09.2003, wherein it refers that for calculating the Selection Grade, the two posts can be taken into consideration and accordingly, it is his contention that the tenure from Health Inspector upto Food Safety Officer has to be taken into consideration for Selection Grade. But, in G.O.Ms.68 P & AR Department, dated 23.01.1986, it has been categorically stated that service rendered in lower posts on other duty should not be taken as a qualifying service in a higher posts, for the advancement to the selection/special Grade.

9. Now the issue is, whether Grade Pay determines lower posts or higher posts. In this connection, it is appropriate to refer Section 4 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. As on 2013, based upon the Grade Pay, the higher post and lower posts are determined. In Section 4, under the interpretation clause, it has been categorically stated that the officers have been classified as Group A to D based upon the Grade Pay. Therefore, as rightly contended by the learned Additional Advocate General, the Grade Pay is the deciding factor to consider whether the post is a lower post or higher post.

10. Here, admittedly, the petitioners from 2009-2013 having the Grade Pay of Rs.4,200/- and only in the year 2013, their Grade Pay was increased to Rs.4,400/-. Therefore, if we apply G.O.Ms.68 dated 23.01.1986, the post which



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they possess earlier as the Food Safety Officer is a lower post and wherein they have not completed 10 years. Even according to G.O.Ms.898 dated 23.09.1983, it only deals about the same cadres of Officer working in different offices. Here, it is not their case. Therefore, this Court is of the firm view that the withdrawal of benefits under the Selection Grade is in accordance with the G.O. However, when there is a calculation made based upon the rectified order, to the extent of calculation, the petitioners are entitled for a notice. Hence, this Court though quash the impugned order on the ground of absence of issuing notice to the petitioners, this Court makes it clear that the respondent notice should only be against the calculation made in the impugned order for recovery.

11. In view of the above detailed discussion, the petitioners are not entitled for Selection Grade in view of G.O.Ms.No.898 dated 23.09.1983 and G.O.Ms.No.68 dated 23.01.1986. However, the petitioners are entitled for notice against the calculation for recovery. Hence, the respondent is directed to issue notice calling for the explanation from the petitioners in respect of the calculation for the recovery amount, within a period of four(4) weeks from the date of receipt of a copy of this order. On receipt of such notice, the petitioners are directed to give explanation and based on such explanation, the respondent has to determine the final amount to be recovered and mode of recovery.



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12. With the above observations, these writ petitions are partly allowed.

There shall be no order as to costs. Consequently, connected WMPs are also closed.

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kmi

Index: Yes/No

Speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Designated Officer

Food Safety Department, Ii Floor,

Collectorate Main Complex,

Thiruvallur District.



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C.KUMARAPPAN J.

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