

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.23542 of 2015
and M.P.Nos.1 & 2 of 2015

R.Subramani

.. Petitioner

Vs.

1.The Assistant Director (Marketing)
Sericulture Department,
Krishnagiri District.

2.The Director of Sericulture,
Sericulture Department,
Anaimedu,
Salem-1.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records of the first respondent in Na.Ka.No.13/A/2012-8 dated 24.06.2013 and quash the same.

For Petitioner : Mrs.Dakshayini Reddy
for M/s.Mukund R Pandiyan

For Respondents : Mr.V.Subbiah,
Special Government Pleader

O R D E R

By consent, this writ petition is taken up for final disposal.

2. The petitioner was initially appointed to the post of daily worker to work in the Sericulture Farm with effect from 1992 and he was fixed with daily wages of Rs.82.50/- and also dearness allowance as per G.O.(2D).No.64, Labour and Employment (J1) Department dated 18.10.2004 and subsequently, he was paid with arrears during the year 2006 and 2007 and he was also granted with all revision of wages. The petitioner would state that as per G.O. (2D).No.64 dated 18.10.2004, the dearness allowance has to be calculated based on Consumer Price Index for each year and as already stated above, the petitioner was paid with the same between 2006 and 2008. Subsequently, the Government issued G.O.Ms.No.37 dated 23.07.2010 refixing the minimum rates of wages in employment in Sericulture and accordingly, the wages of the petitioner was revised to Rs.95/- per day and the said Government Order also stipulated a condition that the dearness allowance should be added

to the minimum wages at the time of actual payment and the petitioner has been paid accordingly. However, to the shock and surprise of the petitioner, the impugned proceedings came to be passed ordering recovery and the grievance expressed by the petitioner is that without affording any opportunity and without issuing any notice, the impugned order came to be passed and hence, prays for interference.

3. Heard the submissions of the learned counsel appearing for the petitioner and Mr.V.Subbiah, learned Special Government Pleader, who accepts notice on behalf of the respondents.

4. Perusal of the impugned proceedings would disclose that before ordering recovery, the petitioner has not been put on notice and no opportunity whatsoever has been afforded to the petitioner and the impugned order visits the petitioner with civil consequences and therefore, in all fairness, he should be put on notice before passing the impugned order, but the first respondent failed to do so and hence, on the sole ground, the impugned order warrants interference.

5. In the result, this Writ Petition is partly allowed and the impugned order passed by the first respondent in Na.Ka.No.13/A/2012-8 dated 24.06.2013 is set aside and the matter is once again remanded to the first respondent for fresh adjudication and the first respondent is directed to issue notice to the petitioner stating the reasons for effecting recovery within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the petitioner shall submit his response within a period of two weeks thereafter and the first respondent, on receipt of the same, is directed to consider the same and pass orders on merits and in accordance with law within a period of four weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

jvm
To

- 1.The Assistant Director (Marketing)
Sericulture Department, Krishnagiri District.
- 2.The Director of Sericulture,
Sericulture Department,
Anaimedu, Salem-1.

+1 cc to M/s.Mukund R. Pandiyan, Advocate, sr.52088
+1 cc to The Government Pleader, sr.51538