

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 09.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.32200/2015 & MP.No.1/2015

N.Kumar

..Petitioner

Versus

1. The Principal Secretary to Government
State of Tamilnadu, Health and
Family Welfare Department,
Secretariat, Fort St George,
Chennai 600 009.
2. The Director of Medical Education,
Kilpauk, Chennai 600 010.
3. The Director,
Government Arignar Anna Memorial
Cancer Hospita, Karapettai
Kancheepuram 631 552.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus calling for the records relating to the proceedings issued by the 3rd respondent in Ref.No.4601/E2/2014 dated 28.09.2015 and to quash the same and consequently, directing the respondents to continue to make the payment of annual increment for acquiring Master of Librarian and Information Science [MLIS] acquired by the petitioner.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.N.Srinivasan, AGP

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ORDER

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

2. The petitioner would state that he is having qualification of B.Sc., B.LIS., and was initially appointed as Junior Assistant and later on, promoted to the post of Librarian Grade-I and at present working in the services of the 3rd respondent/College. The petitioner would further state that while he is in service, he has also acquired Post Graduate qualification in Master of Library and Information Science [M.LIS], in the year 1998 and as per G.O.Ms.No.1159, P&AR [FR II] Department dated 21.11.1984, a Government servant who acquires Post Graduate

qualification in certain specialties such as Business Administration, Engineering, Agriculture, Medicine etc., has to be accorded with two advance increments and the order granting advance increments has been replaced by lump sum grant and once again, the sanctioning of advance increments has been restored in G.O.Ms.No.97 of the very same Department dated 05.07.2010, subject to certain conditions. The petitioner, in view of his Post Graduate qualification, has been sanctioned with advance increments in terms of the above said Government Orders and was also granted annual increments with higher qualification acquired in accordance with the said orders. But, to his shock and surprise, he was issued with the impugned order passed by the 3rd respondent, stating among other things, the persons who are having M.LIS qualification, are not eligible for two advance increments and consequently, ordered recovery as well as refixation of his pay scale and challenging the legality of the said order, the petitioner came forward to file this writ petition.

3. Learned counsel for the petitioner would submit that the case of the petitioner is squarely covered by the above cited Government Orders and admittedly, before passing the impugned order of recovery and refixation of scale of pay, the petitioner has not been put on notice and hence, prays for quashment of the said order and for consequential directions.

4. Per contra, Mr.N.Srinivasan, learned Additional Government Pleader, who accepts notice on behalf of the respondents, would contend that in the light of the above cited Government Orders, the petitioner is not entitled to the advance increments and based on the advance increments, his pay has been refixed and taking into consideration of the said fact, the impugned order came to be passed rightly and prays for dismissal of the writ petition.

5. This Court heard the rival submissions made on either side and also perused the materials placed before it.

6. As rightly contended by the learned counsel for the petitioner, before passing the impugned order of recovery and refixation, the petitioner has not been put on notice and no opportunity of hearing whatsoever, has been accorded to the petitioner before passing such order and hence, on the sole ground, the impugned order warrants interference.

7. In the result, the writ petition is partly allowed and the impugned order passed by the 3rd respondent in Ref.No.4601/E2/2015 dated 28.09.2015 is hereby set aside and the respondent is directed to issue notice to the petitioner 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 is directed to submit his explanation within a further period of two weeks thereafter and on receipt of such explanation/representation, the 3rd respondent is directed to consider

the same and pass orders on merits and in accordance with law within a further period of four weeks thereafter and communicate the decision taken to the petitioner herein. No costs. Consequently, the connected miscellaneous petition is closed.

AP

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub-Assistant Registrar

To

1. The Principal Secretary to Government
State of Tamilnadu, Health and
Family Welfare Department,
Secretariat, Fort St George,
Chennai 600 009.
2. The Director of Medical Education,
Kilpauk, Chennai 600 010.
3. The Director,
Government Arignar Anna Memorial
Cancer Hospital, Karapettai,
Kancheepuram 631 552.

+1 C.C. To MR.G.Sankaran, Advocate in SR.NO.55343

+1 C.C. TO Government Pleader in SR.NO.55622

सत्यमेव जयते

W.P.No.32200/2015

KJI (CO)

sd : 27/10/2015

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