

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 13.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.32549/2015 & MP.Nos.1&2/2015

Mr.Sennirappa

..Petitioner

Versus

1.The Director of Sericulture,
Sericulture Department,
Aniamedu, Salem.

2.The Assistant Director
Sericulture Department
Udananapalli, Hosur Taluk,
Krishnagiri District 635 119.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorari calling for the records in pursuant to the proceedings Na.Ka.No.1280/A/2011-29 dated 20.08.2013 of the 2nd respondent and quash the same.

For Petitioner : Ms.Lesi Saravanan

For R1 & R2 : Mr.R.Vijayakumar, AGP

ORDER

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

2 The petitioner joined as Sericulture worker in the year 1982 on daily wage basis and his services were regularised with effect from 23.02.2010 and the minimum rate of wages payable to the petitioner was also revised and he was paid with daily wage of Rs. 82.50p. + Dearness Allowance. Subsequently, the Government has issued G.O. [2D] No.37, Labour and Employment Department, dated 23.07.2010, refixing the minimum rates of wages in employment in Sericulture and accordingly, the wages of the petitioner was also revised and

he was receiving Rs.95/- per day and in addition to the same, he was also paid the Dearness Allowance. The petitioner was receiving a salary of Rs.5500/- per month since the date of his regular appointment and according to the petitioner, he and other workers are eligible to receive Employees' Provident Fund. However, to the shock and surprise of the petitioner, the 2nd respondent has passed the impugned order dated 20.08.2013, stating among other things, about the excess payment of Dearness Allowance has been made for the period from 01.04.2004 to 31.08.2011 to all the special time scale employees who were working on daily wage basis and it is in excess of the amount than what is stipulated in the Government order and therefore, sought to be recovered at the rate of Rs.500/- per month in instalments and challenging the legality of the said order of recovery, the petitioner came forward to file this writ petition.

3 Learned counsel for the petitioner would submit that the petitioner is not an educated person and not well aware of the legal proceedings and has not chose to challenge the impugned proceedings on time and though some portion has been recovered, since the petitioner is reaching the age of superannuation, it may have an effect on his terminal benefits and hence, prays for appropriate orders.

4 This Court heard the submission of Mr.R.Vijayakumar, learned Additional Government Pleader, who accepts notice on behalf of the respondents.

5 Though the petitioner has submitted his response on 20.08.2013 to the notice dated 26.04.2013, the impugned order came to be passed on the very same day, without taking into consideration the explanation offered by the petitioner and hence, on the sole ground, the impugned order warrants interference and the matter is to be remanded back to the 2nd respondent for fresh consideration subject to certain conditions.

6 In the result, the writ petition is partly allowed and the impugned order passed by the 2nd respondent vide proceedings in Na.Ka.No.1280/A/2011-29 dated 20.08.2013 is set aside and the matter is remanded to the 2nd respondent for fresh consideration in accordance with law. The 2nd respondent is directed to give one more opportunity to the petitioner to put forth his response/explanation in the form of notice as to the recovery to be made, within a period of two weeks from the date of receipt of a copy of this order and it is open to the petitioner to offer his explanation within a further period of two weeks thereafter and the 2nd respondent, on receipt of the such explanation, is directed to consider the same on merits and in accordance with law and pass orders within a further period of eight weeks thereafter and

communicate the decision taken, to the petitioner. It is made clear that the recovery already effected by the 2nd respondent, is subject to the further decision to be taken. No costs. Consequently, the connected miscellaneous petitions are closed.

sd/
ASSISTANT REGISTRAR (CS-III)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

AP

To

- 1.The Director of Sericulture,
Sericulture Department,
Anaimeedu, Salem.
- 2.The Assistant Director
Sericulture Department
Udananapalli, Hosur Taluk,
Krishnagiri District 635 119.

+1 CC to Ms.Lesi Saravanan Advocate. SR.NO. 56509

W.P.No.32549/2015

CO-PA
JD 30/10/2015

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