

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.01.2017

Coram

The Honourable Mr. JUSTICE M.SATHYANARAYANAN

Writ Petition No.76 of 2017

and W.M.P.No.97 of 2017

K.Veeraraghavan

...Petitioner

-Vs-

1. The State of Tamil Nadu,
rep. by Agricultural Production Commissioner &
Secretary to Government,
Fort St.George,
Secretariat,
Chennai - 600 009.
 2. The Director of Agriculture,
Department of Agriculture,
Chepauk,
Chennai - 5.
 3. The Joint Director of Agriculture,
Agricultural Department,
Semmandalam,
Cuddalore - 607 001.
 4. The Deputy Director of Agriculture,
Personnel Assistant to Collector (Agri)
Agriculture Department, Collectorate,
Cuddalore - 607 001.
 5. The Accountant General (A&E) Tamilnadu,
No.361, Annasalai,
Chennai - 600 018.
- ...Respondents.

Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari by calling for the records of the 3rd respondent passed in his proceedings No.Aa-3/11813/2016 dated 21.10.2016 and the consequential order dated 27.10.2016 and subsequent order of recovery passed by the 4th respondent herein in Letter No.S1/4082/2016 dated 25.11.2016 and quash the same.

For Petitioner : Mr.K.Bhasker

For Respondents : Mr.P.Sanjai Gandhi,
Addl.Government Pleader for
R1 to R4
Mr.V.Vijayashankar for R5

O R D E R

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

2. The petitioner is a retired Assistant Agriculture Officer/ Extension Assistant and he retired from service on 31.12.2015 and when the pension proposal was sent to the 5th respondent, it was returned with queries as to the conferment of selection and special grade pay. In this regard, a communication as well as response was also submitted.

3. The grievance expressed by the petitioner is that all of a sudden, the impugned order dated 21.10.2016 came to be passed by the 3rd respondent, in and by which, the selection and special grade payment, accorded to the petitioner was cancelled and in the form of another order dated 27.10.2016 the selection grade has been fixed with effect from 01.04.2012 and pay has been refixed with effect from 01.04.2002 and a separate order for recovery of the alleged differential amount was issued by the 4th respondent. Challenging the legality of the impugned order, the petitioner came forward to file this writ petition.

4. Learned counsel for the petitioner has drawn the attention of this Court to the impugned order and would submit that admittedly, the petitioner was not put on notice and no opportunity of hearing was afforded to him as to the cancellation of the selection grade and special grade and consequently, refixing of pay and recovery of payment of excess amount by way of another order, is utter violation of principles of natural justice and it warrants interference of this Court and prays for quashment of the same.

5. Per contra, Mr.P.Sanjay Gandhi, learned Additional Government Pleader accepts notice on behalf of the respondents 1 to 4 and would submit that taking into consideration all the facts and circumstances, the 3rd respondent has passed the impugned order and it cannot be found fault with and prays for dismissal of the writ petition.

6. This Court has considered the rival submissions and

perused the material available on records.

7. As rightly contended by the learned counsel for the petitioner, a perusal of the impugned order would clearly reveal that no opportunity of hearing was afforded to the petitioner as to cancellation of the selection and special grade of pay and for refixing the same and for recovery of the alleged excess payment. Therefore, this Court is of the considered opinion that the impugned order dated 21.10.2016 and the consequential order dated 27.10.2016 are per se in violation of principles of natural justice and hence, on that sole ground, the impugned order warrants interference of this Court.

8. In the result, the writ petition is partly allowed and the impugned order dated 21.10.2016 and the consequential order dated 27.10.2016 are set aside. The impugned order shall be treated as a show cause notice and the petitioner is at liberty to submit his explanation/response within a period of four weeks from the date of receipt of a copy of this order to the Joint Director of Agriculture, Agriculture Department, Semmandalam, Cuddalore-607 001, and the said official, on receipt of the explanation/response submitted by the petitioner, shall consider the same on merits and in accordance with law and pass orders within a further period of twelve weeks therefrom and communicate the decision taken to the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

vsi

To

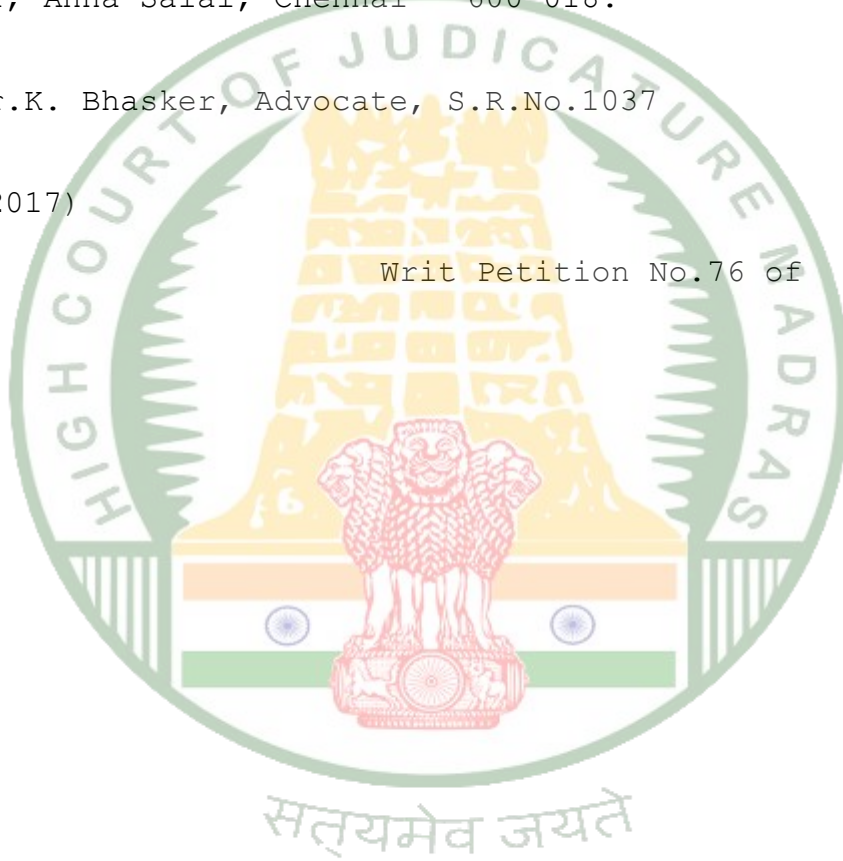
1. The Secretary to Government,
Agricultural Production Commissioner &
Fort St.George, Secretariat,
Chennai - 600 009.
2. The Director of Agriculture Department
of Agriculture, Chepauk, Chennai - 5.

3. The Joint Director of Agriculture
Agriculture Department, Semmandalam,
Cuddalore - 607 001.
4. The Deputy Director of Agriculture,
Personal Assistant to Collector (Agri)
Agriculture Department, Collectorate
Cuddalore 607 001
5. The Accountant General (A&E), Tamilnadu,
No.361, Anna Salai, Chennai - 600 018.

+1cc to Mr.K. Bhasker, Advocate, S.R.No.1037

tm(CO)
md(27/01/2017)

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