

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.01.2017

Coram

The Honourable Mr. JUSTICE M.SATHYANARAYANAN

Writ Petition No.77 of 2017

and

W.M.P.No.98 of 2017

K.K.Namachivayam Petitioner

-Vs-

1. The State of Tamil Nadu,
Represented 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 Assistant Director of Agriculture,
Agriculture Department,
Kattumannarkoil,
Cuddalore District.
5. The Accountant General (A&E), Tamilnadu,
No.361, Anna Salai, 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 to call for the records of the 3rd respondent passed in his proceedings No.Aa-3/5240/2016 dated 02.11.2016 and the consequential order dated 04.11.2016 and quash the same.

For Petitioner :Mr.K.Bhasker

For Respondents :Mr.Sanjay Gandhi, Addl. Govt. 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 31.07.2016 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 02.11.2016 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 04.11.2016 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 2.11.2016 and the consequential order dated 4.11.2016 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 02.11.2016 and the consequential order dated 04.11.2016 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

//True Copy//

Sub Assistant Registrar

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To

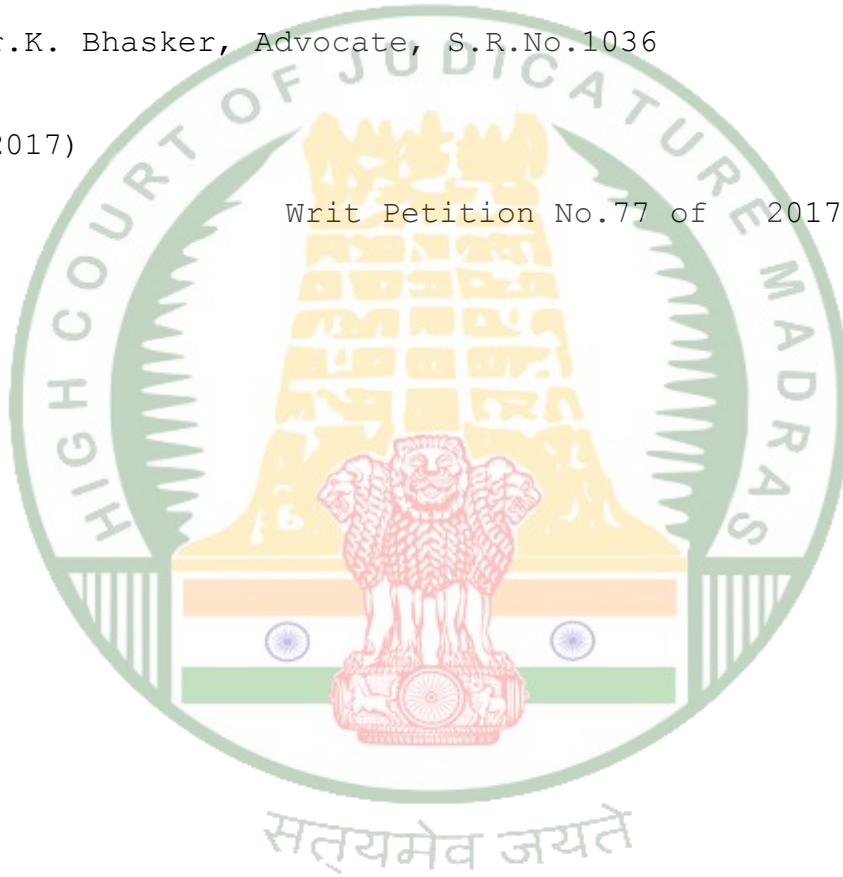
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+lcc to Mr.K. Bhasker, Advocate, S.R.No.1036

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