

For Respondent :: Mr.K. Dhananjayan,
Special Govt. Pleader

O R D E R

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

2. The petitioner was initially appointed as Steno-Typist, Grade III, on 02.07.1999 and later, recruited by transfer as Assistant on 20.07.2006. The respondent, vide proceedings dated 21.07.2009, had granted Selection Grade benefits in the post of Assistant in accordance with various Government Orders, which include G.O.Ms. No. 304 Finance Department dated 28.08.1990, G.O.Ms. NO. 162, Finance Department dated 13.04.1998 and G.O.Ms. No. 234, Finance Department, dated 01.06.2009 and the consequential benefits of fixation of Selection Grade Scale of pay in the post of Assistant was also given and the petitioner was drawing the said pay, since then. However, to the shock and surprise of the petitioner, the respondent has issued proceedings dated 29.04.2016, cancelling the Selection Grade granted to the petitioner, in the post of Assistant and recovered the alleged over-payment of Rs.66,932/- for the period from 02.07.2009 to 30.04.2016. Challenging the legality of the said order and also the order dated 16.08.2016, by which, the respondent has directed the petitioner to give her consent for the order of recovery, the petitioner has come forward with the present writ petition.

3. Ms.P. Rose Kamalam, learned counsel appearing for the petitioner, has drawn the attention of this Court, to the materials placed and would submit that admittedly, the impugned order of recovery came to be issued without affording any opportunity to the petitioner and in the light of the relevant Government Orders only, the Selection Grade scale of pay was given to the petitioner, in the post of Assistant and therefore, prays for quashment of the impugned orders.

4. Per contra, Mr.K. Dhananjayan, learned Special Government Pleader, who accepts notice on behalf of the respondent, would submit that since Selection Grade had been wrongly conferred on the petitioner, a fair decision has been taken withdrawing the same and an order of recovery of Rs.66,932/- has also been passed and therefore, the decision of the respondent cannot be faulted with and prays for dismissal of the writ petition.

5. This Court paid its best attention to the rival submissions and also perused the materials placed before it.

6. A perusal of the impugned order dated 29.04.2016 would disclose

that a sum of Rs. 66,932/- paid to the petitioner, by way of Selection Grade pay, is sought to be recovered, without putting the petitioner on notice. Admittedly, the order of recovery visits the petitioner with grave civil consequences and in all fairness, the respondent ought to have put the petitioner on notice, before ordering recovery. But, unfortunately, the respondent has failed to do so. Hence, on the sole ground, the impugned order of recovery warrants interference.

6. In the result, the impugned orders dated 29.04.2016 and 16.08.2016 are set aside. The writ petition is partly allowed. The respondent is at liberty to issue a show cause notice to the petitioner, citing reasons for ordering recovery, within a period of four weeks from the date of receipt of a copy of this order and on receipt of the same, the petitioner is at liberty to submit her representation/explanation, within a further period of four weeks thereafter. The respondent, on receipt of the representation/explanation of the petitioner, shall consider the same on merits and in accordance with law, and pass orders, within a period of six weeks thereafter and communicate the decision taken to the petitioner. No costs. Connected W.M.Ps are closed.

05.01.2017

To

The Joint Director of Health Services,
Salem.

M. SATHYANARAYANAN, J.

nv

W.P. No. 30432 of 2016

02.01.2017

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