

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2018
CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No. 21791 of 2005
and

W.M.P.Nos. 23723 of 2005 & 82 of 2010
M. Narayanamoorthy

...Petitioner

Vs.

1. The Registrar of Cooperative Societies,
170, EVR Periyar Road,
Kilpauk, Chennai-10.
2. The Deputy Registrar of Cooperative Societies/
Personal Officer, o/o, Joint Registrar,
Kancheepuram.

..Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari or any other appropriate Writ or order or direction in the nature of Writ calling for the records related to the 2nd respondent proceedings made in na.Ka.1351/2005 A1, dated 14.06.2005, to quash the same.

For Petitioner: Mr. L. Chandra Kumar
For Respondents: Ms. T. Giriza, Government Advocate
(Co-op) for R1 & R2

ORDER

The fixation of revision of scale of pay and the consequential recovery issued in proceedings dated 14.06.2005 is under challenge in the present Writ petition.

2. The petitioner was initially appointed as Junior Inspector of Cooperative Societies on 16.12.1985. On the basis of the special qualifying examinations, the writ petition's service were regularised with effect from 16.10.1989. Thereafter the writ petitioner was ousted from service for want of vacancy. The regularisation was granted with effect from 10.04.1992, after acquiring the requisite qualification by the petitioner. Thus, the petitioner would be entitled to get the benefits in the regular basis from the date of regularisation.

3. The learned counsel for the writ petitioner states that the impugned order of revision of pay and recovery was imposed without any show cause notice to the writ petitioner and without providing any opportunity. Thus, the impugned order is in violation of the principles of natural justice.

4. The learned Advocate appearing on behalf of the respondent is unable to dispute the fact in respect of providing an opportunity to the writ petitioner before passing an impugned order of recovery.

5. This Court is of an opinion that any order affecting the service rights of an employee, the same must be issued by providing an opportunity to the employee concerned. In the present case on hand, no show cause notice or opportunity was provided to the writ petitioner while receiving the pay and imposing the recovery. This being the factum of the present Writ Petition, it is to be considered for the purpose of remanding the matter back to the original authority. Accordingly, the impugned order passed by the second respondent dated 14.06.2005 is quashed and matter is remanded back to the second respondent for issuance of show cause notice to the writ petitioner and after getting an explanation from the writ petitioner, the writ petition shall be considered on merits and based on the materials available on record and pass orders within a period of 12 weeks from the date of receipt of a copy of the order. With this direction, the Writ Petition stands disposed of. No Costs. Consequently, Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

mrn

To

1. The Registrar of Cooperative Societies,
170, EVR Periyar Road, Kilpauk, Chennai-10.

2. The Deputy Registrar of Cooperative Societies/
Personal Officer, o/o, Joint Registrar,
Kancheepuram.

+1cc to Mr.L. Chandra Kumar, Advocate SR.No. 89466

+1 CC TO GOVERNMENT PLEADER SR.NO. 88295

W.P.No. 21791 of 2005

and

W.M.P.Nos. 23723 of 2005 & 82 of 2010

A. SK (31/01/2019)