

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11-04-2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.8557 of 2018

And

W.M.P.No.10492 of 2018

J.Sankaran

.. Petitioner

Vs.

1.The Secretary to the Government
of Tamil Nadu,
Finance (Pay Cell Department),
Fort St. George,
Chennai-600 009.

2.The District Collector,
Vellore District,
Office of the Collectorate,
Vellore.

3.The Accounts Branch Office,r
Office of the Principal Accountant
General A&E,
Authorisation of Revision of
Pension/Gratuity/
Commutation,
361, Anna Salai,
Chennai-600 018.

4.The Personal Assistant General
to the Collector,
Vellore District,
Office of the Collectorate.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the fourth respondent refixing the petitioner salary passed in his proceedings No.Na.Ka.E2/1699/2017 dated 23.8.2017 and quash the same as illegal, unlawful and arbitrary, consequently direct the fourth respondent to implement in his proceedings Na.Ka.No.5070/2014 dated 5.8.2014.

For Petitioner : Mr.S.Venkatesh

For Respondents-1,2&4 : Mr.V.Kadhirvelu,
Special Government Pleader.

For Respondent-3 : Mr.V.Vijayshankar

O R D E R

The order of refixation of the pay in proceedings dated 23.8.2017 by the fourth respondent is under challenge in this writ petition.

2. The writ petitioner was appointed as a Typist on 31.8.1981 and his services were regularised with effect from 7.11.1990 and on completion of 10 years of service, selection grade also was granted to the writ petitioner.

3. The pay, as applicable, was fixed by the competent authorities in accordance with the Government Orders and the Pay Rules in force. There was no misrepresentation or otherwise on the part of the writ petitioner at the time of granting the revised scale of pay in accordance with the Government Orders. Under these circumstances, without issuing any show cause notice and opportunity to the writ petitioner, the impugned order of refixation was issued in proceedings dated 23.8.2017 stating that the fixation of pay with revision of pay granted to the writ petitioner was erroneous and accordingly, the revised scale of pay is fixed. However, the ground raised by the writ petitioner that show cause notice was not issued is not disputed by the respondents and further, there is no reference in the impugned order in respect of opportunity, if any, provided to the writ petitioner before taking a decision for refixation of pay.

4. Thus, the impugned order is in violation of the principles of natural justice. Any order affecting the rights of an employee is to be passed only after providing opportunity to the employee concerned. Thus, the impugned order is liable to be set aside. Accordingly, the order issued by the fourth respondent in proceedings No.Na.Ka. E2/1699/2017 dated 23.8.2017 is quashed and the matter is remitted back for reconsideration and for passing final orders after issuing a show cause notice and on receipt of explanations/objections from the writ petitioner.

5. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

Svn

To

- 1.The Secretary to the Government of Tamil Nadu,
Finance (Pay Cell Department),
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Chennai-600 009.
 - 2.The District Collector,
Vellore District,
Office of the Collectorate,
Vellore.
 - 3.The Accounts Branch Office,r
Office of the Principal Accountant General A&E,
Authorisation of Revision of Pension/Gratuity/
Commutation,
361, Anna Salai,
Chennai-600 018.
 - 4.The Personal Assistant General to the Collector,
Vellore District,
Office of the Collectorate.
- + 1 cc to M/s. S. Venkatesh, Advcoate Sr.27181
+ 1 cc to M/s. V. Vijay Shankar, Advocate Sr.27173

W.P.No.8557 of 2018

NRI (CO)
EU(27/04/2018)

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