

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.889 OF 2018

Mr. Krishna S. Gosavi,
major of age,
Field Worker,
Zonal Agricultural Office,
Pernem Goa.

... Petitioner

Versus

1. The Director,
Directorate of Agriculture,
Krishi Bhavan,
Tonca, Caranzalem, Goa.

2. The Director,
Directorate of Accounts,
Next to Old Secretariat Building,
Pazenda Building,
Panaji Goa.

3. Secretary (Finance)
Government of Goa,
Finance (Rev & Cont),
Secretariat, Porvorim Goa.

4. Zonal Agricultural Officer,
Pernem Goa.

... Respondents

Mr. J. Godinho, Advocate for the Petitioner.

Mr. A. Prabhudessai, Additional Government Advocate for the Respondents.

Mr. Fransquinha Oliveira, Deputy Director (Adm.), Department of Agriculture and Mr. Prasad Parab, Zonal Agricultural Officer, Pernem, are present in person.

***Coram : M. S. Sonak &
Prithviraj K. Chavan, JJ.***

Date : 11th January, 2019

Oral Judgment (Per M. S. Sonak, J)

Heard Mr. J. Godinho, learned counsel for the Petitioner and Mr. A. Prabhudessai, learned Additional Government Advocate for the Respondents.

2. Rule. Rule returnable forthwith. Heard finally with the consent of the learned counsel for the parties. Mr. A. Prabhudessai, learned Additional Government Advocate waives notice on behalf of the Respondents.

3. The Petitioner is a Field Worker at the Zonal Agricultural

Office at Pernem Goa. By order dated 12th October, 2016, in supersession of the earlier orders, the Petitioner was placed in the Pay Scale of IS Rs.4440-7440+Rs.1300/- Grade Pay and other allowances as admissible from time to time instead of PB-I of Rs.5200-20200 + Rs.1800/- Grade Pay. Based upon this order dated 12th October, 2016, the Respondents issued pay fixation order dated 3rd July, 2017 and further issued a communication dated 11th July, 2018 seeking to recover excess payment received by the Petitioner, on the basis of earlier pay fixation.

4. It is mainly these orders which have been impugned in this present petition. Mr. Godinho, learned counsel for the Petitioner submits that the impugned orders visit the Petitioner with serious pecuniary consequences. He points out that before such orders were made, there was no compliance with the principle of natural justice. On this short ground, he submits that the impugned orders warrant interference.

5. Mr. Prabhudessai, learned Addl. Government Advocate does not dispute that before the impugned orders were made, there was no notice to the Petitioner and the Petitioner was not afforded any

opportunity in the matter. He submits that in terms of this Court's order dated 27th November, 2018, there are directions to treat the instant petition as a representation and, thereafter to make appropriate orders thereon. Mr. Prabhudessai, on the basis of instructions, states that the Respondents are not averse to treating this petition as a representation and making appropriate orders after due consideration of the representation.

6. Mr. Prabhudessai, based upon the instructions submits that the orders dated 12th October, 2016 as well as the consequential orders in so far they concerned the Petitioner will not be given effect to until the representation of the Petitioner is decided on its own merits and in accordance with law. He also states that if the Petitioner's representation is decided against the Petitioner, the adverse decision will not be implemented for a period of two weeks from the date of its communication to the Petitioner.

7. The matter of this nature which involves virtually the reduction of Pay Scale or other financial benefits which the Petitioner was already availing, the Respondents, ought to have afforded the Petitioner an opportunity of putting forth his case. Since, this was not

done, it is only appropriate that the orders impugned in this petition are not given effect to until the Petitioner's version is considered and some appropriate decision is taken after consideration of the Petitioner's version.

8. Mr. Godinho, learned counsel for the Petitioner agrees that this petition itself may be considered as Petitioner's representation. In these circumstances, there is no necessity that the Petitioner being served with any formal notice. Since, the matter relates to pay fixation, there is no necessity of any personal hearing. In this case, the personal hearing is not pressed for on behalf of the Petitioner.

9. The circumstance that the impugned order shall not be given effect to meaning and implies with the Pay Scale and other financial benefits which the Petitioner was drawing prior to making of the impugned order dated 12th October, 2016 will have to be restored to the Petitioner. No doubt, such restoration shall be subject to the condition that the same shall ultimately abide by the final order that shall be made by the Respondents on this issue. The Petitioner, no doubt, will have right to challenge such final order which the

Respondents may pass, in case the same is adverse to the Petitioner.

10. Mr. Prabhudessai, learned Addl. Government Advocate states that the Petitioner's representation i.e. the present petition itself will be disposed of as expeditiously as possible. He states that the financial benefits to the Petitioner, in terms of this order, will be restored and paid to the Petitioner within a period of four weeks from today. It is made clear that this Court has not examined the merits of the matter and, therefore, it is for the Respondents to examine the merits of the matter and decide the Petitioner's representation in accordance with law.

11. Fair and reasonable approach on the part of the Respondents/State is appreciated.

12. The writ petition is disposed of. Rule is made absolute in the aforesaid terms. There shall be no order as to costs.

Prithviraj K. Chavan, J.

M. S. Sonak, J.

*at**