

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.19730 of 2010

R.Krishnamoorthy

.. Petitioner

Vs.

1.The Chief Engineer,
Agricultural Engineering Department,
Anna Salai, Nandanam,
Chennai - 600 035.

2.The Assistant Executive Engineer (AE),
Agricultural Engineering,
Cuddalore - 607 002.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorari to call for the records connected with the impugned Proceedings bearing Letter No.E/1781/2010 dated 17.08.2010 of the 2nd Respondent herein and quash the same.

For Petitioner : Mr.K.M.Ramesh

For Respondents : Mr.K.Ravikumar
(Additional Government Pleader)

सत्यमेव जयते
O R D E R

Writ Petition is filed for issuance of writ of Certiorari to call for the records connected with the impugned Proceedings bearing Letter No.E/1781/2010 dated 17.08.2010 of the 2nd Respondent herein and quash the same.

2.According to the petitioner, he was appointed as Welder Grade III in Government Agricultural Engineering Workshop, Chennai on 22.05.1986. When the fourth pay commission was implemented, all the Grade III posts were abolished and merged with Grade II post. The petitioner became Welder Grade II. As per the report of the one man committee, the first respondent by G.O.Ms.No.446, Finance (Pay Cell) Department dated 31.08.1998,

granted Grade I Welder pay to the petitioner. Upon closure of workshop in Chennai, the petitioner was transferred to Coimbatore, Virudachalam and then to the office of the second respondent at Cuddalore. The concerned Assistant Executive Engineer, the second respondent herein, refixed the salary of the petitioner on the ground of anomaly and ordered recovery of the amounts mentioned therein. Challenging the said impugned order dated 17.08.2010, the petitioner has come out with the present Writ Petition.

3. Heard the learned counsel appearing for the petitioner as well as Mr.K.Ravikumar, learned Additional Government Pleader appearing for the respondents and perused the entire materials on record.

4. The learned counsel appearing for the petitioner referred to the order dated 15.04.2015 made in W.P.(MD)No.1223 of 2012 and contended that the said order of this Court is applicable to the facts of the present case and also produced a copy of the said order.

5. I have gone through the averments in the affidavit and counter affidavit and the order of this Court dated 15.04.2015 made in W.P.(MD)No.1223 of 2012.

6. From the above materials, it is clear that the case of the petitioner is also covered by the order of this Court dated 15.04.2015 made in W.P.(MD)No.1223 of 2012, wherein at paragraph nos.22 to 25, it has been held as follows:

"...22. According to the petitioner, while he was working in Government Agricultural Engineering Workshop, Washermanpet, Chennai - 21 all the 11 Turners Grade-I, retired on attaining age of superannuation and the first respondent requested the petitioner and others to work as Turner Grade-I and he was discharging the duty as Turner Grade-I. That is the reason why, the first respondent by his letter dated 26.09.2002 directed the second respondent to fix the petitioner's pay as Turner Grade-I, as per G.O.Ms.No.446 dated 31.08.1998.

23. Based on the said letter, the second respondent by his proceedings No.558/01 dated 31.10.2002 fixed the salary of the petitioner as Turner Grade-I. In the counter affidavit the

respondents have stated that the petitioner was never promoted as Turner Grade-I and no Government Order has passed in this regard. It is not the case of the petitioner that he was promoted as Turner Grade-I. On the other hand, petitioner's specific case is on superannuation of all the 11 Turners Grade-I, the petitioner and others were directed to discharge the duties of Turner Grade-I. This contention of the petitioner has considerable force and is supported by letter of the first respondent dated 26.09.2002 bearing Ref.No.9/2002 and consequential fixation of pay by the second respondent, by the proceedings dated 31.10.2002 in proceedings No.A.588/01.

24.Having extracted work from the petitioner as Turner Grade-I, even though, no formal promotional order was issued, the respondents cannot downgrade the salary of the petitioner.

25.For the reasons stated above, the impugned orders of the respondents are not valid and liable to be set aside."

In view of the order of this Court referred to above, the impugned order is liable to be set aside and it is hereby set aside.

7.In the result, this Writ Petition stands allowed. No costs.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

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To

1.The Chief Engineer,
Agricultural Engineering Department,
Anna Salai, Nandanam,
Chennai - 600 035.

2.The Assistant Executive Engineer (AE),
Agricultural Engineering,
Cuddalore - 607 002.

+1cc to Mr.K.M.Ramesh, Advocate SR.No.56852

+1cc to Government Pleader SR.No.58035

W.P.No.19730 of 2010

BR (CO)
GMY (08/08/2019)



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