

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.16499 of 2019

and

W.M.P.No. 16140 of 2019

V.Shanmugam

..Petitioner

Vs

- 1.The Principal Secretary to Government,
Handlooms, Handicrafts, Textiles and Khadi Department,
Secretariat,
Chennai-600 009.
- 2.The Director,
Sericulture Department,
Salem,
Salem District.
- 3.Assistant Director of Sericulture,
Namakkal,
Namakkal District.
- 4.Assistant Director of Sericulture,
Dindigul,
Dindigul District.
- 5.The Accountant General,
Teynampet,
Chennai-600 018.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records connected with the impugned order passed by the second respondent in his letter Na.Ka.No.8102/Pa Aa 4/2014-41 dated 02.11.2018 and the consequential orders of recovery passed by the third respondent in his proceedings No.1441/A/2018 dated 04.12.2018 and quash the same.

For Petitioner	: Mr.R.Rengaramanujam
For Respondents	: Mr. R.S.Selvam
	Government Advocate

O R D E R

The petitioner has filed the present Writ Petition for issuance of a Writ of Certiorari, to call for the records connected with the impugned order passed by the second respondent in his letter Na.Ka.No.8102/Pa Aa 4/2014-41 dated 02.11.2018 and the consequential orders of recovery passed by the third respondent in his proceedings No.1441/A/2018 dated 04.12.2018 and quash the same.

2. According to the petitioner, he joined the service as Junior Inspector of Sericulture on 04.07.1984 under the control of the third respondent and his due date of increment is first July of every year and on completion of 20 years of service, his pay was fixed in the selection grade with effect from 17.01.2004 with monetary from 01.01.2005 and on his next due date of increment, it was restored and sanctioned in the usual course as on 01.07.2005 as per the orders of the fourth respondent dated 31.05.2005 and subsequently the pay was revised in terms of G.O.Ms.No.44 Finance dated 18.02.2014 after moving to the Special Grade with effect from 01.01.2006 with monetary benefit from 01.12.2013, where his junior Mr.Govindaraj was drawing higher pay since he moved to the special grade with effect from 01.01.2006 and therefore, he got two increments of 3% + 3% both in the Special Grade and in the revised pay scale sanctioned in terms of G.O.Ms.No.44 finance dated 18.02.2014 with effect from 01.01.2006. Therefore the petitioner made representation to the third respondent that his Junior was getting more pay though he is senior and requested the third respondent to step up his pay on par with his junior and it was considered by the third respondent and his pay was raised on par with his junior by the orders of the third respondent dated 03.02.2017. In the meanwhile the impugned order dated 02.11.2018 came to be passed by the second respondent, stating that the petitioner suffered stoppage of increment without cumulative effect for a period of six months and therefore he is not entitled for the revision of pay on par with his junior. The petitioner submits that consequent on the impugned order passed by the second respondent, the third respondent has issued show cause notice dated 08.11.2018 calling for his explanation as to why recovery should not be made from the gratuity amount payable to him as per the revision of pay scale and fixed a time limit of 15 days. Therefore, the petitioner submitted his explanation on 23.11.2018. However, the third respondent without considering his explanation has passed the impugned order of recovery by his order dated 04.12.2018. Hence, the present writ petition is filed.

3. The learned counsel appearing for the petitioner would submit it would be suffice to issue direction to the first

respondent to dispose of the appeal dated 23.11.2018 on merits and in accordance with law within a stipulated time.

4. Mr.R.S.Selvam, learned Government Advocate appearing for the respondents conceded to the limited request made by the learned counsel for the petitioner.

5. Without expressing any opinion on merits of the case and considering the limited request made by the learned counsel for the petitioner, I am inclined to issue direction to the first respondent to consider the appeal dated 23.11.2018 filed by the petitioner and pass orders on merits in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. With the above directions, the Writ Petition is disposed of. The petitioner is directed to send a copy of the appeal petition along with order copy to the first respondent to enable him to pass orders. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To,

1.The Principal Secretary to Government,
Handlooms, Handicrafts, Textiles and Khadi Department,
Secretariat,
Chennai-600 009.

2.The Director,
Sericulture Department,
Salem,
Salem District.

3.Assistant Director of Sericulture,
Namakkal,
Namakkal District.

4.Assistant Director of Sericulture,
Dindigul,
Dindigul District.

5.The Accountant General,
Teynampet,Chennai-600 018.

+1cc to Mr.R.Rengaramanujam , Advocate SR.No. 80564

+1 cc to Government Pleader Sr.No. 81612

W.P.No.16499 of 2019

A.SK(28/11/2019)