

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.11.2019
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.16085 of 2019
And
W.M.P.No.15854 of 2019

S.K.Venkatachalam

... Petitioner

Vs.

1.The Chief Engineer (Agricultural Engineering)
487, Anna Salai, Nandanam, Chennai - 600 035.

2.The Assistant Executive Engineer,
(Agricultural Engineering), Pollachi,
Coimbatore District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned orders of the second respondent in Proceedings No.E/1303/2018 (1) dated 30.04.2019 and Proceedings No.E/1303/ 2018 (2) dated 30.04.2019 and quash the said orders and direct the respondents to restore the pay fixation which existed before the issue of the impugned orders and grant all consequential benefits to the petitioner.

For Petitioner	: Mr.P.Rajendran
For Respondents	: Mr.A.N.Thambidurai
	Special Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned orders of the second respondent in Proceedings No.E/1303/2018 (1) dated 30.04.2019 and Proceedings No.E/1303/ 2018 (2) dated 30.04.2019 and to quash the said orders and to direct the respondents to restore the pay fixation which existed before the issue of the impugned orders and to grant all consequential benefits to the petitioner.

2.Heard the arguments advanced on either side.

3.The case of the petitioner is that the petitioner was initially appointed as Assistant Soil Conservation Officer on

01.09.1986 and was promoted as Junior Engineer (Agricultural Engineering) on 13.12.2007 and since he was in possession of Degree in Engineering qualification, he was re-designated as Assistant Engineer (Agricultural Engineering), with effect from 13.12.2007 and two incentive increments were granted to the petitioner with effect from 25.06.2012. Whiles, the second respondent issued the impugned proceedings; one for re-fixing the petitioner's pay with effect from 25.06.2012 and another directing recovery of a sum of Rs.2,64,675/- from the petitioner's pay. Aggrieved by the same, the petitioner has filed this writ petition.

4.The learned counsel appearing for the petitioner would submit that the respondents have power to cancel the increments granted earlier, if the increments were granted by non application of mind or by quoting wrong Government Orders. However, the increments were granted to the petitioner in the year 2012 and without any notice, it was suddenly cancelled and recovery order was passed in the year 2019 which is clear violation of principles of natural justice.

5.The learned Special Government Pleader appearing for the respondents would fairly concede that no opportunity was given to the petitioner before passing the impugned orders.

6.This Court perused the impugned orders. Perusal of the impugned orders reveal that no show cause notice calling for explanation from the petitioner was issued before issuance of the impugned orders. Hence, the impugned orders are set aside only on the ground of violation of principles of natural justice. The matter is remitted back to the respondents for fresh consideration. Till the respondents pass fresh orders, the order of interim stay of recovery alone granted by this Court shall continue.

7.The writ petition is accordingly disposed of. No costs. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-
Assistant Registrar(CJ Conf)

// True Copy//

Sub Assistant Registrar

pri

To

1.The Chief Engineer (Agricultural Engineering)
487, Anna Salai, Nandanam, Chennai - 600 035.

2.The Assistant Executive Engineer,
(Agricultural Engineering), Pollachi,
Coimbatore District.

+1CC to Special Government Pleader 98008.

W.P.No.16085 of 2019

And

W.M.P.No.15854 of 2019

SR(CO)

CSR: 17/12/2019