

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.17713 of 2018

and

WMP No.20982 of 2018

S.Dayalan

... Petitioner

Vs.

1. Government of Tamil Nadu
Rep. by its Secretary
Agricultural Department
Fort St. George
Chennai-600 009.

2.The Director
Agricultural Department
Chepauk, Chennai-600 005.

3. The Joint Director of Agricultural
No.43/578 B, Sir C.V Raman
Cross Street, Rajajipuram-2
Tiruvallur-602 001.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Certiorarified Mandamus, after calling for the concerned records from the 3rd respondent, quash the order of the 3rd respondent dated 14.06.2018 bearing No.A3/3513/2017 and the Letter No.A3/3513/2017 dated 21.06.2018 as illegal, arbitrary and contrary to law and consequently direct the respondents to restore the pay of the petitioner as drawn before the impugned order dated 14.06.2018 issued by the 3rd respondent.

For Petitioner : Mr.Balan Haridas
For Respondents : Mr.R.S.Selvam
Government Advocate

O R D E R

This writ petition has been filed seeking to quash the order of the 3rd respondent dated 14.06.2018 bearing No.A3/3513/2017 and the Letter No.A3/3513/2017 dated 21.06.2018 as illegal, arbitrary and contrary to law and consequently direct the respondents to restore the pay of the petitioner as drawn before the impugned order dated 14.06.2018 issued by the 3rd respondent.

2.The case of the petitioner is that the petitioner joined the respondent department in the year 1982, in the post of Lab Assistant. On completion of 10 years, the petitioner was given Selection Grade in the year 1992 and Special Grade in the year 2002. Thereafter, the petitioner was promoted to the post of Assistant Agricultural Officer by an order dated 07.03.2007, in which the petitioner is continuing to work. The Government of Tamil Nadu constituted an official committee to examine and make necessary recommendations for the revision of scale of pay and allowances of State Government employees based on the decision of the Central Government on the recommendations of the VI Central Pay Commission. Based on the recommendations of the committee so constituted, the Government of Tamil Nadu issued G.O.Ms.No.234 dated 01.06.2009 and in that the Tamil Nadu Revised Scale of pay Rules, 2009. Based on the Tamil Nadu Revised Scale of Pay Rules, 2009, revised the pay scale in respect of the petitioner based on his re-option letter and his pay was fixed in the Laboratory Assistant Post (Special Grade). Accordingly, the Government has issued G.O (Nilai) No.248, dated 22.07.2013 fixing the pay scale in respect of the Laboratory Assistant in the Agricultural Department. Subsequently, the petitioner sought for re-fixation of the pay in the aforesaid Special Grade Pay Scale with effect from 01.01.2006 in terms of G.O (Nilai) No.240 dated 22.07.2013. Accordingly, his pay was fixed in the post of Laboratory Assistant Special Grade with effect from 01.01.2006. Thereafter, the petitioner was promoted as Assistant Agricultural Officer and he is entitled for revision of pay in the said post with effect from 01.03.2007 being the date when he expressed his willingness for promotion and accordingly, his pay in the post of Assistant Agricultural Officer has to be fixed. Thereafter, the Government has issued G.O.Ms No.237 dated 22.07.2013 and by that the petitioner is entitled to grant of one additional increment of 3% of basic pay on being awarded with selection grade/special grade in the revised scale of pay. Accordingly, as he had been given Special Grade with effect from 01.03.2007 in the Assistant Agricultural Officer, the pay scale in the selection Grade was fixed. The said pay scale was revised in terms of G.O No.248 dated 22.07.2013 with notional benefit from 01.01.2006 and with monetary benefit from 01.04.2013. That being the position, the 3rd respondent has issued order dated 14.06.2018 stating that the Special Grade granted to the petitioner in the post of Assistant Agricultural Officer with effect from 01.07.2007 in the pay scale of Rs.5000-150-8000 is cancelled and he has also issued the order dated 21.06.2018 by the wrong fixation of pay a sum of Rs.1,30,988/- has been given in excess and the same will be recovered in 22 installments and the first installment will be Rs.5,964/- and the rest of the installment will be Rs.5,954/-.

The said impugned order was passed without any notice and without hearing the petitioner. As against the said impugned order, this present writ petition is filed.

3. Mr. Balan Haridass, the learned counsel for the petitioner submitted that though the petitioner has been awarded Special Grade with effect from 1.03.2007, the Selection Grade pay was fixed in the post of Assistant Agricultural Officer with effect from 01.07.2007. However, subsequently the 3rd respondent cancelled the Special Grade to the petitioner without any notice or without hearing the petitioner. Accordingly, this Court may set aside the impugned order and remand back the matter to the concerned authorities for complying with the procedures in accordance with law.

4. Without going into the merits of the case, this Court is of the view that the impugned order dated 14.06.2018 did not reveal with regard to the show cause notice issued against the petitioner and it is clear that the impugned order was passed without due process of law. Hence, on the limited ground of non-compliance of the procedures, the impugned order is set aside. Accordingly, the matter is remitted back to the 3rd respondent authority for passing fresh orders after issuing notice to the petitioner. For compliance of the same, the 3rd respondent is directed to issue notice to the petitioner within one week from the date of receipt of a copy of this order. Liberty is granted to the petitioner to submit his explanation within a period of two weeks on receipt of the said notice. On receipt of the said explanation, the respondents shall pass appropriate orders within a period of four weeks thereafter.

5. With the above directions, the impugned order is set aside and the writ petition stands allowed to the extent indicated above. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

uma
To

1. The Secretary
Agricultural Department
Fort St. George
Chennai-600 009.

2. The Director
Agricultural Department
Chepauk, Chennai-600 005.
3. The Joint Director of Agricultural
No.43/578 B, Sir C.V Raman
Cross Street, Rajajipuram-2
Tiruvallur-602 001.

W.P.No.17713 of 2019
and
WMP No.20982 of 2018

RR(CO)
SP(06/11/2019)