

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :14.03.2019

CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.33949 of 2018
and
W.M.P.Nos.39421 & 39422 of 2018

1.A.Karthigeyan
2.T.Arivalagan
3.S.Duraiaraj
4.A.Lakshmanan
5.K.Arujunan

..Petitioners

vs

The Commissioner,
Nelliyalam Municipality
Pandalur Nilgris District.

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the respondent issued in Na.Ka.No.1621/2018/A2 dated 06.12.2018 and quash the same and consequently to direct the respondent to grant all consequential benefits to the petitioners.

For Petitioners : Mr.P.L.Thirumoorthy

For Respondent : Mr.R.S.Selvam
Government Advocate

O R D E R

The order dated 06.12.2018, effecting the revision of pay and the recovery is under challenge in the present writ petition.

2.The learned counsel for the writ petitioners state that the petitioners were absorbed as Electrician Helper and water supply workers on daily wages basis and subsequently, brought under the regular establishment. The scale of pay was fixed as per the Government orders in force during the relevant point of time. However, the order of recovery and revision of pay has been issued by the respondent in proceedings dated 06.12.2018 without providing any opportunity and show cause notice to the writ petitioner. Thus, the unilateral decision taken by the respondent is liable to be set aside.

3.The learned Government Advocate, who is appearing on behalf of the respondent is unable to establish that the

respondent had issued show cause notice to the writ petitioners before issuing the impugned order of revision of pay as well as the recovery. Any order, affecting the service rights of an employee, should be passed only after providing a reasonable opportunity to the employee concerned. An employee must be provided with an opportunity by issuing show cause notice, enabling him to submit his explanations/objections in respect of the proposed actions to be taken. In view of the fact that no such opportunity is given to the writ petitioners, enabling them to defend their case, the present writ petition is to be remanded.

4. Accordingly, the impugned order passed by the respondent in proceedings in Na.Ka.No.1621/2018/A2 dated 06.12.2018 is quashed. The respondent is directed to issue show cause notice, setting out all the facts and details to the writ petitioners within a period of four weeks from the date of receipt of a copy of this order. On receipt of the show cause notice, the writ petitioners are directed to submit their explanations/objections along with documents, if any, within a period of three weeks from the date of receipt of copy of the show cause notice to be issued by the respondents. Thereafter, the respondent is at liberty to consider the materials available on record and pass orders on merits and in accordance with law within a period of four weeks therefrom.

5. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

kak

To

The Commissioner,
Nelliyalam Municipality
Pandalur Nilgris District.

+1cc to Mr.R.S.Selvam, Advocate, S.R.No.23992

+1cc to Mr.P.I.Thirumoorthy, Advocate, S.R.No.25329

W.P.No.33949 of 2018

RRS (11/04/2019)