

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.32492 to 32497 of 2013

And

M.P.Nos.1 to 1 of 2013

1	C.KASTURI	... PETITIONER in WP No.32492 of 2013
1	P.HARIMURTHY	... PETITIONER in WP No.32493 of 2013
1	S.CHANDRANITHY	... PETITIONER in WP No.32494 of 2013
1	V.AERONSE	... PETITIONER in WP No.32495 of 2013
1	A.K.KALAIVANAN	... PETITIONER in WP No.32496 of 2013
1	S.G.PANDI SELVAM	... PETITIONER in WP No.32497 of 2013

Vs.

1 THE GOVERNMENT OF TAMIL NADU
REP. BY THE SECRETARY TO GOVERNMENT
ENVIRONMENT AND FORESTS DEPARTMENT
FORT ST. GEORGE CHENNAI-9.

2 THE MEMBER SECRETARY
TAMIL NADU POLLUTION CONTROL BOARD
76, MOUNT SALAI GUINDY
CHENNAI-600 032.

..Respondents in all W.Ps

Prayer in W.P.No.32492 to 32497 of 2013:These Petitions are 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 order of the second respondent in

Proc.No.K.Dis./ TNPC Bd/Per/P5/038338/2013 dated 07.11.2013
(in W.P.No.32492/2013)

Proc.No.K.Dis./ TNPC Bd/Per/P5/038300/2013 dated 07.11.2013
(in W.P.No.32493/2013)

Proc.No.K.Dis./ TNPC Bd/Per/P5/038556/2013 dated 07.11.2013
(in W.P.No.32494/2013)

Proc.No.K.Dis./ TNPC Bd/Per/P5/038296/2013 dated 07.11.2013
(in W.P.No.32495/2013)

Proc.No.K.Dis./ TNPC Bd/Per/P5/038298/2013 dated 06.11.2013
(in W.P.No.32496/2013)

Proc.No.K.Dis./ TNPC Bd/Per/P5/038340/2013 dated 07.11.2013
(in W.P.No.32497/2013)

and quash the same and direct the second respondent to restore the pay fixation as existed prior to the issue of the impugned order and grant all consequential benefits to the petitioner.

For Petitioner : Mr.P.Rajendran

For Respondents: Mr.S.Prabhu for R1

Additional Government Pleader

Mr.C.Kasirajan for R2

C O M M O N O R D E R

The petitioners have filed these writ petitions challenging the orders of recovery passed against them.

2.The case of the petitioners is that the petitioners were initially appointed as Typists and on completion of ten years of service, they were moved to Selection Grade in the post of Typist. Thereafter, they were promoted as General Assistants. Since the Selection Grade pay in the post of Typist and the Ordinary Grade pay in the promotional post of General Assistant were one and the same, the petitioners were granted Selection Grade pay in the post of General Assistant. Thereafter, vide the impugned orders, the petitioners pay were re-fixed and the Selection Grade increment already awarded were cancelled and recovery of the excess amount were ordered. Hence, these writ petitions.

3.The learned counsel appearing for the petitioners would submit that Selection Grade pay in the post of General Assistant was granted to the petitioners by the respondents only after following due process of law, by considering the length of service rendered by the petitioners. However, without issuing any show cause notice and without hearing the petitioners, the impugned orders of recovery were passed which is non est in law and against the principles of natural justice.

4.The learned counsel appearing for the second respondent fairly conceded that the impugned orders were issued without issuing any show cause notice, which is against the principles of natural justice. He would further submit that this Court may remand the matter back to the second respondent for complying with the principles of natural justice.

5.Considering the views expressed by the learned counsel appearing for the petitioner as well as by the learned counsel appearing for the second respondent and this Court perused the impugned order, on perusal it reveal no opportunity was provided to the petitioner, hence, this Court is inclined to set aside the impugned orders and to remit the matter back to the second respondent for fresh consideration.

6.The writ petitions are allowed. The impugned orders are set aside. The matter is remitted back to the second respondent for fresh consideration. The second respondent shall issue show cause notice to the petitioners and shall proceed with the matter in accordance with law. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Secretary to Government,
Environment and Forests Department,
Fort St.George, Chennai - 600 009.

2.The Member - Secretary
Tamil Nadu Pollution Control Board,
76, Mount Salai, Guindy,
Chennai - 600 032.

+1 Cc to The Special Government Pleader(Forest) sr 28362.

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KK(CO)
SP(21/10/2020)