



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.8499 of 2020

and

W.M.P. (MD) Nos.7883 & 7884 of 2020

WEB COPY

C.Jeyakumar

... Petitioner

Vs.

1.The Tamil Nadu Civil Supplies Corporation,
Rep. By the Managing Director,
No.12, Thambusamy Road, Kilpauk,
Chennai 600 010
Email:tncsc.tn@nic.in

2.The Senior Regional Manager,
Krishnagiri Regional Office,
Chennai Bypass Road, Godown Complex,
Krishnagiri.
Email: tncsckgi@nic.in

3.The Senior Regional Manager,
Thanjavur Regional Office,
P.B.No.69, Sachidhanantha Moopanar Road,
Near Membalam,
Thanjavur - 613 001
Email: tncsctnj@nic.in

... Respondents

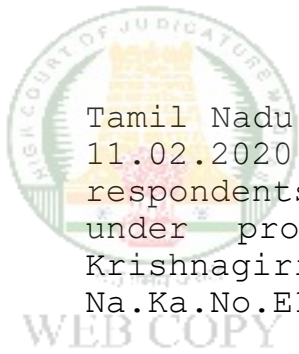
PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the Regional Manager, Krishnagiri region, Tamil Nadu Civil Supplies Corporation in Na.Ka.No.E1/2651/2018 dated 11.02.2020 and quash the same and consequently direct the respondents to restore the re-fixation of pay originally granted under proceedings dated 27.03.2018 of the Regional Manager, Krishnagiri region, Tamil Nadu Civil Supplies Corporation in Na.Ka.No.E1/1227/2016 with all attendant and consequential benefits.

For Petitioner : Mr.N.Dilip Kumar

For R1 to R3 : Mr.R.Vijayakumar, Standing counsel

O R D E R

The prayer sought for in this writ petition is for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the Regional Manager, Krishnagiri region,



Tamil Nadu Civil Supplies Corporation in Na.Ka.No.E1/2651/2018 dated 11.02.2020 and quash the same and consequently direct the respondents to restore the re-fixation of pay originally granted under proceedings dated 27.03.2018 of the Regional Manager, Krishnagiri region, Tamil Nadu Civil Supplies Corporation in Na.Ka.No.E1/1227/2016 with all attendant and consequential benefits.

2. The petitioner is working as Superintendent with the respondent (i.e) Tamil Nadu Civil Supplies Corporation. In this regard, the petitioner's pay, when he was working as a Typist, was not properly fixed, according to the petitioner and, therefore, it seems that the petitioner has already requested the respondent Corporation to refix the salary at Typist grade and accordingly, revise his salary and in this regard, Mr.N.Dilip Kumar, learned counsel appearing for the petitioner would submit that, his request has been considered by the respondents and his pay was also refixed and some enhanced pay was fixed and has been continuously paid to the petitioner.

3. When that being so, all of a sudden, the order impugned dated 11.02.2020 has been issued whereby, the pay already fixed and paid to the petitioner, has once again been reviewed and refixed by which, according to the refixed pay, the pay already fixed has been reduced and consequently, the difference in pay paid already to the petitioner is sought to be recovered.

4. In this regard, the learned counsel appearing for the petitioner would submit that, before passing the impugned order, dated 11.02.2020, with regard to the refixing of the salary of the petitioner and consequential recovery of excess salary alleged to have been paid to the petitioner, no notice has been given and without giving any opportunity to the petitioner, since the impugned order of refixing of the salary and recovery of excess salary allegedly paid to the petitioner has been made, the said order is bad in law, he contended.

5. Mr.R.Vijayakumar, learned standing counsel appearing for the respondents accepts notice and on instructions, he would submit that, though against the order impugned herein, appeal remedy is available to the petitioner, in view of the ground raised by the petitioner, that this order impugned has been passed by the respondents without giving an opportunity to the petitioner, that means, without giving any show cause notice requiring the petitioner to give his explanation, the respondents have passed this impugned order, the learned standing counsel appearing for the respondents fairly submits that, on the said ground, the impugned order can be interfered with and if the matter is remitted back to the respondents, they would be in a position to reconsider the same, by issuing a show cause notice and after giving a reasonable opportunity to the petitioner, a final decision would be taken



6. The said fair submission made by the learned counsel appearing for the respondents / Tamil Nadu Civil Supplies Corporation is hereby recorded. Since the principles of natural justice is the prime ground urged in this writ petition, even though, an alternative remedy has been raised by the respondents, this Court is inclined to entertain this writ petition, on the ground of violation of principles of natural justice and therefore, this writ petition is disposed of with the consent of both sides at the admission stage itself with the following order:

- (i) that the impugned order, dated 11.02.2020, in view of the aforesaid facts that no notice has been given before passing such impugned order, is hereby quashed;
- (ii) Consequently, the matter is remitted back to the respondents for reconsideration; and
- (iii) While reconsidering the issue, the petitioner shall be given a show cause notice by the respondents and on receipt of such show cause notice, it is open to the petitioner to respond and after receiving the response from the petitioner, if need be, a personal hearing can also be given and thereafter, the issue can very well be decided by the respondents.

7. With the above directions, the writ petition stands ordered accordingly. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

+1 CC to M/s.R. VIJAYAKUMAR, Advocate (SR-13603[F] dated 04/08/2020)

+1 CC to M/s.N. DILIPKUMAR, Advocate (SR-13630[F] dated 05/08/2020)

Order made in
W.P. (MD)No.8499 of 2020
Dated:03.08.2020