



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2020

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.9783 of 2014

and

M.P.(MD)Nos.2 & 3 of 2014

WEB COPY

1.Ramaraj

2.V.Mariappan

3.Kumarasamy

... Petitioners

Vs.

1.The State of Tamil Nadu,
Rep. by the Secretary,
Handlooms, Handicrafts, Textiles
and Khadi Department,
Fort St. George, Chennai-9.

2.The Director,
Department of Sericulture,
Annaimeedu,
Salem.

3.The Assistant Director,
Sericulture Department,
Nannagaram, Tenkasi,
Tirunelveli District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus, to call for the records relating to the impugned order passed by the third respondent in Se.Mu.No.4102/Aa/2011, dated 24.03.2014 and quash the same and consequently, direct the third respondent to return the amount already recovered by the respondent from the petitioner's salary.

For Petitioners : Mr.S.Muniyandi

For Respondents : Mr.C.M.Mari Chelliah Prabhu
Additional Government Pleader

ORDER

The order of recovery issued by the Assistant Director of Sericulture in proceeding dated 24.03.2014 is under challenge in the present writ petition.

2.The petitioners were initially engaged as daily wage employees and in respect of the salary paid, recovery is made. The impugned order states that the dearness allowance was paid



excessively to the writ petitioners and therefore, the order of recovery was issued.

3.The counter affidavit filed by the third respondent reveals that no show cause notice or opportunity was provided to the writ petitioners before passing the impugned order. The counter affidavit states that the respondents came to know that the dearness allowance received in excess is to be recovered in order to safeguard the government funds.

4.Though it is stated that opportunity was given to the writ petitioners while passing the impugned order, there is no mentioning about the issuance of any show cause notice to the writ petitioners. Any order affecting the monetary benefits of the employees must be issued only after providing an opportunity to such employees who all are aggrieved. The principles of natural justice requires that the show cause notice is to be issued stating the facts and details and on receipt of the explanation, decision is to be taken on merits and an order is to be passed. The said procedure has not been followed in the present case. Thus, the present Writ Petition is a fit case for remand. Accordingly, the following orders are passed:-

(1) the impugned order passed by the third respondent in proceeding dated 24.03.2014 is quashed.

(2) The matter is remanded back to the third respondent for consideration.

(3) The third respondent is directed to issue a show cause notice to the writ petitioner 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 petitioners are directed to submit their respective explanation to the third respondent within a period of two weeks from the date of receipt of the show cause notice. Thereafter, the third respondent is bound to consider the merits of the case and take a decision and pass final orders within a period of twelve weeks therefrom.

5.With this direction, the Writ Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

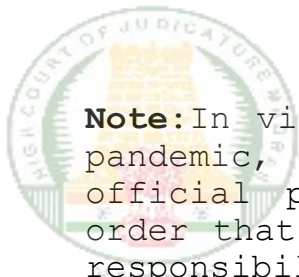
Assistant Registrar (CRL.Side)

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/ /2020

Sub Assistant Registrar(CS)

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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.

WEB COPY

To

1.The Secretary,
Handlooms, Handicrafts, Textiles
and Khadi Department,
Fort St. George, Chennai-9.

2.The Director,
Department of Sericulture,
Annaaimedu,
Salem.

3.The Assistant Director,
Sericulture Department,
Nannagaram, Tenkasi,
Tirunelveli District.

+1 CC to M/s.SPL GP (SR-21463[F] dated 06/11/2020)

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and
M.P. (MD) Nos.2 & 3 of 2014
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PV(CO)
KB(11.11.2020) 3P 5C