



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2021

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.36549 OF 2007

R.Punithavalli

..Petitioner

vs.

1. The Director of Social Welfare,
Chepauk, Chennai-600 005.
2. The District Social Welfare Officer,
Erode, Erode District.
3. The Special Officer,
The Erode Ladies Tailoring Workers
Industrial Cooperative Society Limited,
13, Sanjay Nagar, Sampath Nagar,
Erode-638 011, Erode District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent in Na.Ka.No.3204/Si.Thi.2/07 dated 28.09.2007 and quash the same and direct the first respondent to restore the fixation of pay as existed prior to the issue of the impugned order and grant all consequential benefits to the petitioner.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.T.Arunkumar,
Additional Government Pleader
for R1 to R3

O R D E R

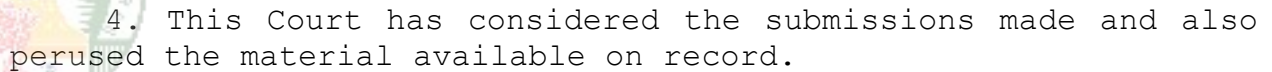
The case of the petitioner is that he was initially appointed as Appraiser on daily wage basis on 20.09.1986 and thereafter, through Employment Exchange, he was absorbed as Accountant cum Store Keeper on regular basis in the third respondent society on 01.11.1998 in the time scale of pay. The



scale of pay was periodically revised and her pay was fixed in the time scale of pay of Rs.1200-30-1560-40-2040 with effect from 01.04.1992 and thereafter, no revision was made for about 14 years till the year 2006. On 08.12.2006, the petitioner's pay was fixed in the revised scale of pay of Rs.4000-100-6000 with effect from 01.01.1996 by the third respondent and she was also paid the arrears. While that being so, the first respondent, vide proceedings dated 28.09.2007 (order impugned herein) stating that the above said revision was made by the third respondent without obtaining approval from the first respondent and without taking into account the instructions in Circular No.5 dated 31.12.1997 and thereby cancelled the aforesaid revision of pay and directed payment of salary which the petitioner was getting before the said revision and also ordered for recovery of the alleged excess payment made to the petitioner. Challenging the same, the present writ petition has been filed.

2. The learned counsel for the petitioner would submit that the impugned order has been passed in violation of the principles of natural justice, as the petitioner was not afforded any opportunity to put forth her explanation and the revision of pay of the petitioner was made in accordance with the permission granted by the second respondent and therefore, there is no illegality or infirmity attributed in the said revision of scale of pay and the instruction of the first respondent in Circular No.5 dated 31.12.1997 was not at all communicated to the third respondent till the revision of pay of the petitioner on 08.12.2006 and therefore, the impugned order is liable to be set aside.

3. Mr.T.Arunkumar, learned Additional Government Pleader appearing for the respondents has drawn the attention of this Court to the counter affidavit of the second respondent, wherein it has been stated that under the Industrial Cooperative Societies run under the purview of the first respondent, pay fixation shall be made only after getting approval of the first respondent and the explanation given by the third respondent with regard to pay fixation in respect of the petitioner was not satisfactory and therefore, the first respondent has rightly passed the impugned order, quashing the order of the third respondent for fixation of pay scale of the petitioner and also directed the second respondent to pay regular scale of pay to the petitioner and also to collect the excess amount paid to the petitioner by way of recovery and therefore, prays for dismissal of this writ petition. It is also reported by the learned Additional Government Pleader that in pursuant to the impugned order of recovery, so far no amount has been recovered from the petitioner.



6. Be that as it may, the respondents 1 and 2 neither served any notice to the petitioner nor communicated any reasons before passing the impugned order of recovery, except obtaining explanation from the third respondent. Therefore, on the sole ground of violation of principles of natural justice, the impugned order of the first respondent is liable to be set aside.

8. This Writ Petition stands allowed with the above directions. No costs.

Sub Assistant Registrar

<https://hcservices.ecourts.gov.in/hcservices/>



To

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Chepauk, Chennai-600 005.

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Erode, Erode District.

3. The Special Officer,
The Erode Ladies Tailoring Workers
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Erode-638 011, Erode District.

+1cc to the Government Pleader, S.R.No.63477

W.P.No.36549 of 2007

PL(CO)
RLP(09/12/2021)