



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2021

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NO.25215 OF 2009

AND

MP.NO.2 OF 2009

S.Pragadeeswaran

... Petitioner

Vs

1. The Commissioner of Agriculture,
Chepauk, Chennai -5.

2. The Joint Director of Agriculture,
Vellore.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari to call for the records of the second respondent in connection with the impugned orders issued in and by his B2/303/2007(3) dated 30.09.2009 and B2/303/2007 dated 30.10.2009 and quash the same.

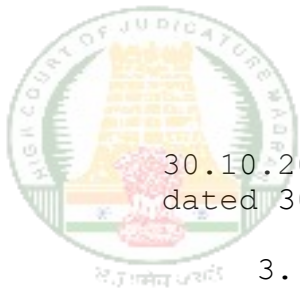
For Petitioner : Mr.Balakrishnan
for Mr.M.Ravi

For Respondents: Mr.C.Selvaraj,
Government Advocate

O R D E R

The petitioner was appointed as a Junior Assistant in the Agricultural Department during the year 1974 and moved through the ranks, promoted to the post of Assistant in 1982 and Superintendent during the year 2001. He retired from service on 31.07.2009 upon attaining the age of superannuation.

2. Post retirement, impugned order dated 30.09.2009 was passed by virtue of which order dated 18.06.1996 re-fixing his pay on par with his junior had been cancelled without any notice and after the elapse of 11 years. Recovery of a sum of Rs.44,693/- was ordered under separate proceedings dated



30.10.2009. The petitioner challenges both the aforesaid orders, dated 30.09.2009 and 30.10.2009.

3. The petitioner was working in the category of Assistant drawing pay in the scale of Rs.5000-150-8000 with effect from 01.01.1996, whereas his junior had been drawing a pay of Rs.5,450/-. Taking note of the discrepancies, R2, the Joint Director, Agricultural Department had re-fixed and revised the petitioner's pay to place it on par with the pay fixed and disbursed to his junior. Accordingly, the petitioner had been receiving the pay and all benefits in line with the re-fixation effected on 18.06.1998.

4. The respondents contend in counter that the re-fixation was itself incorrect and erroneous. Had it been so, it was incumbent upon the respondents to have cancelled the re-fixation within a reasonable time and not post superannuation of the petitioner.

5. In a batch of matters, in the case of State of Punjab and others v. Rafiq Masih (White Washer) and others (2015 4 SCC 334), the Hon'ble Supreme Court considered various situations in which recovery is effected from employees, holding that such recovery, if imminent upon their retirement, or post retirement cannot be countenanced. In the present case, both the impugned orders dated 30.09.2009 and 30.10.2009 have been served upon the petitioner post retirement. Hence, the aforesaid orders are liable to be quashed and I do so. This Writ Petition is allowed. No costs. Connected miscellaneous petition is closed.

6. Post dictation of this order, it is brought to my notice that the petitioner has expired on 23.06.2016. I am not inclined to direct that the legal heirs be brought on record, since that would further delay disposal of this writ petition. Hence, the Registry is directed to issue a copy of this order to the address of the petitioner.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vs



To

1. The Commissioner of Agriculture,
Chepauk, Chennai -5.
2. The Joint Director of Agriculture,
Vellore.
3. S.Pragadeeswaran
S/o.M.Swaminathan,
No-89, Dr.M.G.R.Street,
Ezhil Nagar, Thorapadi,
Vellore-2.

+1cc to the Government Pleader, S.R.No.51612

W.P.No.25215 of 2009 and
MP.No.2 of 2009

RSV (CO)
PM/12/11/2021