



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE **M.M.SUNDRESH**
AND
THE HONOURABLE MRS.JUSTICE **S.ANANTHI**

W.P. (MD) No.22247 of 2018

R.Subbian

: Petitioner

Vs.

1. The Principal District Judge,
Theni District, Theni.
2. The Principal Secretary to Government,
Home (Court - V) Department,
Secretariat, Chennai - 600 009.
3. The Accountant General (A & E),
Anna Salai, Thenampet,
Chennai - 600 018.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned letter of the third respondent in No.PR AG(A&E) PEN P02/10222584/1/R0222584 dated 04.05.2018 and quash the same and consequently, directing the third respondent to admit the option exercised by the petitioner in the post of Head Clerk in Judicial Magistrate Court as an upgraded post as on 08.10.2009 as per Government Letter No.34124 (Pay Cell)/2009-1, dated 26.06.2009 by holding the petitioner's last pay drawn of Rs.68,200/- and direct the first respondent to repay the salary and other monetary allowances.

For Petitioner : Mr.C.M.Arumugam

For Respondents : Mr.K.Samidurai
for R.1

Mr.K.P.Krishnadoss,
Special Government Pleader
for R.2

Mr.P.Gunasekaran
for R.3



ORDER

(Order of the Court was made by **M.M.SUNDRESH, J.**)

The petitioner has reached the age of superannuation on 31.03.2018. When his pension papers were sent, the impugned proceedings was passed by the third respondent stating that the petitioner's fixation of salary is not correct. Challenging the same, the present writ petition has been filed.

2. The learned Counsel appearing for the petitioner, placing reliance upon the order of the Division Bench in **W.P. (MD) No.18719 of 2017, dated 09.03.2018**, submitted that the order having civil consequences, the petitioner is entitled to be heard. Reliance has been made on the following paragraphs of the aforesaid judgment:-

"10.Thus, considering the limited grievance expressed in the writ petition, we are of the considered view that the following direction would meet the ends of justice.

11.The petitioner is directed to submit a representation to the second respondent clearly stating as to how he is entitled to the benefit and enclose the relevant G.O. as well as a copy of this order. On receipt of the same, the second respondent shall verify the particulars and ascertain from the station where the petitioner was functioning and when the benefit of G.O.Ms.No.416, Home (Court V) Department, was implemented. If the post in which the petitioner was functioning is one among 364 posts, which was upgraded vide the said G.O., then the second respondent is directed to make appropriate proposal to the first respondent enclosing the copy of all documents in support of his stand and communicate the same to the first respondent. In any event, if the second respondent finds that the post in which the petitioner was functioning was not one among 364 posts which was upgraded vide G.O.Ms.No.416 Home (Court V) Department, an appropriate reply shall be sent to the petitioner on the petitioner's representation."

3. No doubt, the proceedings impugned has got civil consequences. But, the petitioner need not even challenge the said proceedings. The competent authority to deal with the issue is the first respondent, as the impugned proceedings is a mere communication.

4. In such view of the matter, the first respondent is directed to issue show cause notice to the petitioner, show causing as to why re-fixation shall not be done and thereafter, pass appropriate final orders in accordance with law. The entire exercise will have to be done within a period of twelve weeks from the date of receipt of a copy of this order. Till such time, the order impugned passed by the third respondent shall not be given effect to.



5. With the above directions, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar (CS)

To

1. The Principal District Judge,
Theni District, Theni.
2. The Principal Secretary to Government,
Home (Court - V) Department,
Secretariat, Chennai - 600 009.
3. The Accountant General (A & E),
Anna Salai, Thenampet,
Chennai - 600 018.

+1 CC to The Special Government Pleader (SR-12247[F] dated
18/03/2021)

W.P. (MD) No. 22247 of 2018

17.03.2021

gk

AE/ (30/03/2021) 3P / 5C