

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2022

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.NO.37192 OF 2016

AND

W.M.P.NOS.31944 OF 2016 AND 22826 OF 2018

V.Dharmarajan

... Petitioner

-Vs-

1. The Director of Animal Husbandary  
and Veterinary Service,  
DMS Buildings,  
Chennai - 600 006.

2. The Deputy Director,  
District Livestock Farm,  
Hosur, Krishnagiri District.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order issued by the Second Respondent vide Na.Ka.No.3096/A1/2013 dated 06.07.2016 and quash the same and consequently direct the Respondents to restore the Petitioner's pay scale of Rs.5,200 - 20,200 with Grade Pay of Rs.2,800 with effect from 18.12.2014, grant attendant benefits.

For Petitioner : Mr.SP.Srinivasan

For Respondents : Mr.G.Ameedius  
Government Advocate

O R D E R

Heard Mr.SP.Srinivasan, Learned Counsel for the Petitioner and Mr.G.Ameedius, Learned Government Advocate appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who is working in the office of the Second Respondent, has challenged the Proceedings in Na. Ka. No. 3096/Aa1/2013 dated 06.07.2016 passed by the Second Respondent in which he has been informed that the excess payments made to him would be recovered from his salary in installments with a consequential direction to the Respondents to restore the pay scale of Petitioner with effect from 18.12.2014 and grant attendant benefits.

3. This Court at the time of admission on 25.10.2016 had granted an order of interim stay of recovery alone, which continues to be in force as on date.

4. It is trite law that any administrative action which involves civil consequences must be made consistently with the rules of natural justice, meaning thereby that the person concerned must be informed of the case with supporting evidence against him and he must be given a fair opportunity to meet the case before an adverse decision is taken. The Government of Tamil Nadu in G.O. Ms. No. 286, Finance (Pension) Department dated 28.08.2018 after referring to the principles laid down by the Hon'ble Supreme Court of India in State of Punjab -vs- Rafiq Masih (Whitewasher) [(2015) 4 SCC 334], has issued detailed instructions providing the manner in which any excess amount paid to Government Servants/Pensioners/Family Pensioners would have to be made.

5. There is nothing to show either in the impugned order or in the Counter-Affidavit dated 23.07.2018 filed by the Second Respondent that before directing to effect recovery of the excess payment claimed to have been made, any show cause notice had been issued to the Petitioner calling for an explanation from him with supporting materials relied in that regard. Such incurable flaw in decision making by the Respondents is in violation of the principles of natural justice and would vitiate the impugned order. In that view of the matter, the impugned order passed by the First Respondent is set aside leaving it open to the concerned authorities to appropriately deal with the matter following due process. It shall be incumbent upon the concerned authorities to issue show cause notice to the Petitioner explaining as to what has to be the actual pay scale of the Petitioner and how the excess payment has occurred along with the working-sheet of the calculation for the same and after affording full opportunity of personal hearing to him and considering each of the objections that may be raised by him, a reasoned order shall be passed on merits and in accordance with law following the procedure laid down in the instructions in G.O.Ms.No.286, Finance (Pension) Department dated 28.08.2018 issued by the Government of Tamil Nadu, uninhibited and uninfluenced by the earlier order passed in the matter, and the

decision taken shall be communicated to the Petitioner under written acknowledgement.

6. In the event of the concerned authorities failing to initiate fresh such proceedings within 30.09.2022, the scale of pay of the Petitioner shall be restored with effect from 18.12.2014 and any amount so far recovered from the Petitioner or further amount due to him pursuant to setting aside of the impugned order, shall be paid to him with specific details under written acknowledgment and report of compliance in that regard shall be filed before the Registrar (Judicial) of this Court.

In fine, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

skr

To

1. The Director of Animal Husbandary  
and Veterinary Service,  
DMS Buildings,  
Chennai - 600 006.
2. The Deputy Director,  
District Livestock Farm,  
Hosur, Krishnagiri District.

Copy To:-

The Registrar (Judicial),  
Madras High Court,  
Chennai - 600 104.

+1cc to Mr.SP.Srinivasan, Advocate, S.R.No.42435  
+1cc to the Government Pleader, S.R.No.42955

W.P.No.37192 of 2016

MG(CO)  
PBS/14/07/2022