



W.P.Nos.8122 of 2014 etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.07.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition Nos.8122, 8327, 8328, 8329, 11250, 17206, 17207,
17208, 20389, 20390 and 20391 of 2014
and M.P.Nos.2 to 2 of 2014 in WP Nos.17206 to 17208 of 2014
and M.P.Nos. 1 to 1 and 2 to 2 of 2014
in WP Nos.20389 to 20391 of 2014

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|----------------------------|---|
| 1. R.Eswari | ... Petitioner in WP No.8122/14 |
| 2. A. Samuel Rajkumar | |
| 3. S.Malarvizhi | |
| 4. J.Josephine Sahaya Rani | ... Petitioners in WP Nos.8327
to 8329 of 2014 |
| 5. K.Prakash | ... Petitioner in WP No.11250/14 |
| 6. K.Rammohan | |
| 7. M.Murugan | |
| 8. P.Kamaraj | ... Petitioners in WP Nos.17206
to 17208 of 2014 |
| 9. S.Palanisamy | |
| 10. M.Pannirselvam | |
| 11. P.Sivarudrappa | ... Petitioners in WP Nos.20389
to 20391 of 2014 |

-Vs-

1. The Government of Tamil Nadu,
represented by the Secretary to Government,
Environment & Forests Department,
Fort St. George,
Chennai - 600 009.



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2. The Member-Secretary,
Tamil Nadu Pollution Control Board,
76, Mount Salai, Guindy,
Chennai - 600 032.

... Respondents in all WPs.

Prayer in WP No.8122 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the second respondent in Proc.No. K.Dis / TNPCB / Per / P5 / 041106 / 13 dated 26.11.2013 and quash the same and direct the second respondent to restore the pay fixation made by the order issued by the second Respondent to restore the pay Fixation made by the order issued by the second Respondent to restore the pay fixation made by the order issued by the second Respondent in Mu.Mu. / Per / P5 / 20998 / 11 dated 10.10.2011 and grant her all consequential benefits including refund of the amounts recovered from the petitioner.

Prayer in WP No.8327 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records from the 2nd respondent relating to the issue of the impugned orders namely Proc. No. Per/P1/5143/11 dt 13.7.2013 and Proc. No. Per/P1/26562/ 2013 dt 8.1.2014 and quash the same and consequently to direct the 2nd respondent to repay the amount already recovered from the petitioner pursuant to the impugned orders.

Prayer in WP No.8328 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records from the 2nd respondent relating to the issue of the impugned orders namely Proc. No. Per/P1/5143/11 dt 13.7.2013 and Proc. No. Per/P1/26562/ 2013 dt 24.12.2013 and quash the same and consequently to direct the 2nd respondent to repay the amount already recovered from the petitioner pursuant to the impugned orders.

Prayer in WP No.8329 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records from the 2nd respondent



relating to the issue of the impugned orders namely Proc. No. Per/P1/5143/11 dt 13.7.2013 and Proc. No. Per/P1/26562/ 2013 dt 21.1.2014 and quash the same and consequently to direct the 2nd respondent to repay the amount already recovered from the petitioner pursuant to the impugned orders.

Prayer in WP No.11250 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records from the 2nd respondent relating to the issue of the impugned orders namely Proc. No. Per/ P1/ 5143/11 dated 13.7.2013 and Proc. No.TNPCB/ Per/ P1/ 26562/ 2013 dated 30.1.2014 and quash the same.

Prayer in WP No.17206 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records from the second respondent relating to the issue of the impugned orders namely Proc.No. Per/P1/5143/11 dated 13.07.2013 and Proc.No. Per/P1/16931-5/2013 dated 14.06.2013 and quash the same and consequently to direct the second respondent to revise the Proc.No. Per/P1/16931-5/2013 dated 14.06.2013 after taking into consideration of the pay scale fixed by the 2nd respondent in Proc.No. Per/P1/5143/2011 dated 20.07.2011.

Prayer in WP No.17207 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records from the second respondent relating to the issue of the impugned orders namely Proc.No. Per/P1/5143/11 dated 13.07.2013 and Proc.No. TNPCB/Per/P1/ 26562/ 2013 dated 06.03.2014 and quash the same and consequently to direct the second respondent to repay the amount already recovered from the petitioner pursuant to the impugned orders.

Prayer in WP No.17208 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records from the second respondent relating to the issue of the impugned orders namely Proc.No. Per/P1/5143/11 dated 13.07.2013 and Proc.No. TNPCB/Per/ P1/26562/ 2013 dated 21.04.2014 and quash the same and consequently to direct



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the second respondent to repay the amount already recovered from the petitioner pursuant to the impugned orders.

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Common Prayer in WP Nos.20389 to 20391 of 2014: Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records from the 2nd respondent relating to the issue of the impugned orders namely Proc. No. Per/P1/5143/11 dt 13.7.2013 and Proc. No. Per/P1/26562/2013 dt 21.4.2014 and quash the same and consequently to direct the 2nd respondent to repay the amount already recovered from the petitioner pursuant to the impugned orders.

For Petitioner

in WP No.8122 of 2014 : Mr.P.Manoj Kumar

in WP Nos.8327 to 8329,
11250, 17206 to 17208,
and 20389 to 20391 of 2014 : Mr.N.Subramaniyan

For Respondents : Mrs.S.Anitha (for R1)
in all WPs. Special Government Pleader.
Mrs.Vijayakumari Natarajan
Standing Counsel for TNPCB
(for R2)

COMMON ORDER

The orders of fixation of pay and the consequential recovery of excess payment are sought to be quashed in the present writ petitions.

2. The petitioners joined the Tamil Nadu Pollution Control Board and the fixation of pay was done as per the Tamil Nadu Revised Scales of Pay after 01.01.2006 in the case of the writ petitioners.



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3. The learned counsel appearing on behalf of the writ petitioners mainly contended that the fixation and the consequential recovery was issued without even issuing any show cause notice to the writ petitioners and therefore, the orders impugned are in violation of the principles of natural justice.

4. Any order affecting the rights of an employee is to be passed only after affording an opportunity to the employee concerned. In the present case, there is no reference regarding such an opportunity provided to the writ petitioners or consideration of defence, if any submitted by the writ petitioners in respect of revised scale of pay and the recovery.

5. In view of the facts and circumstances, this Court is of the considered opinion that the refixation is to be done only after affording opportunity to the writ petitioners. No doubt, the Authorities are empowered to correct the mistakes in fixation of pay if any. However, an employee concerned is entitled for an opportunity.



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6. Accordingly, the orders impugned passed by the second respondent are quashed and the matter is remanded back for fresh consideration. The respondents are directed to issue show cause notice setting out the facts and details to the writ petitioners, within a period of four weeks from the date of receipt of a copy of this order and the petitioners are at liberty to submit their explanations/objections if any, within a period of two weeks from the date of receipt of a copy of the show cause notice to be issued by the respondents. Thereafter, the respondents are directed to consider the case of the writ petitioners on merits and in accordance with law and pass appropriate orders as expeditiously as possible.

7. With the abovesaid directions, the writ petitions stand allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No
Speaking/Non-speaking order.
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1. The Secretary to Government,
Government of Tamil Nadu,
Environment & Forests Department,
Fort St. George, Chennai - 600 009.
2. The Member-Secretary,
Tamil Nadu Pollution Control Board,
76, Mount Salai, Guindy,
Chennai - 600 032.



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S.M.SUBRAMANIAM, J.

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