

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.16401 of 2014

and

M.P.No.2 of 2014

M.Saravanakumar

...Petitioner

vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Environment & Forests Department,
Fort St. George, Chennai - 9.

2.The Tamil Nadu Pollution Control Board,
Rep. by its Member Secretary,
No.67, Mount Salai,
Guindy, Chennai - 72.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of the respondents in connection with the impugned order passed by the second respondent in Proc.No.Per/P1/5143/11 dated 13.07.2013 and Proc.No.TNPCB/Per/P1/26562/2013 dated 07.05.2014 and quash the same.

For Petitioner : Mr.K.Venkata Ramani,
Senior Counsel
for Mr.T.Ayngaraprabhu

For R1 : Mrs.S.Anitha,
Special Government Pleader

For R2 : Mrs.Vijayakumari Natarajan,
Standing Counsel for TNPCB

ORDER

The order of fixation of pay and the consequential recovery of excess payment is sought to be quashed in the present writ petition.

2. The petitioner joined as Assistant Engineer in the Tamil Nadu Pollution Control Board. 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 petitioner.

3. The learned Senior Counsel appearing on behalf of the writ petitioner mainly contended that the fixation and the consequential recovery was issued without even issuing any show cause notice to the writ petitioner and therefore, the order impugned is 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 petitioner or consideration of defence if any submitted by the writ petitioner 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 re-fixation is to be done only after affording an opportunity to the writ petitioner. 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.

6. Accordingly, the order impugned passed by the second respondent in proceedings No.Per/P1/5143/11, dated 13.07.2013 and proceedings No.TNPCB/Per/P1/26562/2013, dated 07.05.2014 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 petitioner, within a period of four weeks from the date of receipt of a copy of this order and the petitioner is at liberty to submit his 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 petitioner on merits and in accordance with law and pass appropriate orders as expeditiously as possible.

7. With the aforesaid directions, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

hvk

To

- 1.The Secretary to Government,
Government of Tamil Nadu
Environment & Forests Department,
Fort St. George, Chennai - 9.
- 2.The Member Secretary,
Tamil Nadu Pollution Control Board,
No.67, Mount Salai,
Guindy, Chennai - 72.

+1cc to Mr.T.Ayngaraprabhu, Advocate SR.No.40189

+1cc to Mrs.Vijayakumari Natarajan, Advocate SR.No.39120

W.P.No.16401 of 2014

SSN(CO)
GMV(12/07/2022)