



WEB COPY



W.P.No.17798 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.17798 of 2014

and

M.P.No.1 of 2014

K.A.Ashok Kumar

... Petitioner

-Vs-

1. The Government of Tamil Nadu,
Rep. by Secretary to Government,
Department of Environment and Forest,
Fort St. George,
Chennai - 600 009.

2. The Member Secretary,
Tamil Nadu Pollution Control Board,
No.76, Mount Salai,
Guindy, Chennai - 32.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in relation to the impugned order of the second respondent in Proc.No.TNPC Bd/Per/P5/008845/2014 dated 08.02.2014 and quash the same and issue a consequential direction to the respondents to restore the pay fixation as existed prior to the issue of the impugned order and grant all consequential benefits to the petitioner.



WEB COPY



W.P.No.17798 of 2014

For Petitioner : Mr.S.Saravanan

For Respondents : Mrs.S.Anitha, (for R1)
Special Government Pleader

Mrs.Vijayakumari Natarajan (for R2)
for TNPCB

ORDER

The order of refixation of pay and the consequential recovery is under challenge in the present writ petition.

2. The writ petitioner was holding the post of General Assistant in the office of the District Environmental Engineer, Tamil Nadu Pollution Control Board. The petitioner was awarded Selection Grade in the post of General Assistant with effect from 19.09.2011. Accordingly, the Selection Grade Pay of the writ petitioner was fixed by the respondents, in accordance with the pay rules in force. Subsequently, there was a Government instruction and based on the said instructions, the pay of the writ petitioner was revised and consequently, the excess salary paid to the petitioner was sought to be recovered. The petitioner is challenging the refixation made by the respondents unilaterally without affording any opportunity to the writ petitioner.



W.P.No.17798 of 2014

WEB COPY 3. This Court is of the considered opinion that any decision affecting the service rights of an employee must be issued only after affording an opportunity to the employee concerned. Thus, the impugned order in the present writ petition has been issued in violation of the principles of natural justice. Therefore, the order passed by the 2nd respondent in proceedings No.TNPC Bd/Per/P5/008845/2014 dated 08.02.2014 is quashed and the matter is remanded back to the 2nd respondent for fresh consideration.

4. Accordingly, the 2nd respondent is directed to issue a show cause notice setting out the facts and details to the writ petitioner within a period of four weeks from the date of a copy of this order. The petitioner is at liberty to submit his explanations / objections, if any, within a period of two weeks from the date of receipt of the copy of the show cause notice to be issued by the 2nd respondent. Thereafter, the 2nd respondent is directed to consider the objections, if any, submitted by the writ petitioner and materials available on record and pass appropriate orders on merits and in accordance with law, within a period of twelve (12) weeks, thereafter.



W.P.No.17798 of 2014

WEB COPY 5. With these directions, the writ petition stands allowed. No costs.

Consequently, the connected Miscellaneous Petition is closed.

29.06.2022

Index: Yes/No
Speaking/Non-speaking order.
ars

To

1. The Secretary to Government,
Government of Tamil Nadu,
Department of Environment and Forest,
Fort St. George, Chennai - 600 009.

2. The Member Secretary,
Tamil Nadu Pollution Control Board,
No.76, Mount Salai, Guindy, Chennai - 32.



WEB COPY



W.P.No.17798 of 2014

S.M.SUBRAMANIAM, J.

ars

W.P.No.17798 of 2014

29.06.2022