

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM

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

W.P.No.18064 of 2014

and

M.P.No.1 of 2014

V.Sri Lal

...Petitioner

vs.

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

2. The Member Secretary,
Tamil Nadu Pollution Control Board,
No.76, 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 Certiorarified Mandamus to call for the records of the second respondent in relation to the impugned order in Proc.No.TNPC Bd/Per/P5/007857/2014-2 dated 28.04.2014 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.

For Petitioner : Mr.S.Saravanan

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 General Assistant 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 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 2nd respondent in Proc.No.TNPC Bd/Per/P5/007857/2014-2 dated 28.04.2014 is 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-VIII)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Secretary to Government,
Government of Tamil Nadu
Department of Environment & Forest,
Fort St. George, Chennai - 9.
2. The Member Secretary,
Tamil Nadu Pollution Control Board,
No.76, Mount Salai,
Guindy, Chennai - 72.

+1cc to Mrs.Vijayakumari, Advocate, S.R.No.39122

W.P.No.18064 of 2014

NRL(CO)
UMA(13/07/2022)