



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.2873 of 2022

and

W.M.P.(MD) Nos.2517 & 2518 of 2022

S.Arunachalam

... Petitioner

-vs-

1.The Director of Social Defence,
Social Defence Department,
Chennai-10.

2.The Assistant Director,
Local Fund Audit Department,
Thoothukudi District.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Order in No.1431/A3/2019 dated 04.01.2022 on the file of the Respondent No.1 and quash the same as illegal in so far as the petitioner is concerned and consequently for a direction, forbearing the Respondent No.1 from reducing the scale of pay of the petitioner and effect recovery without following the principles of natural justice.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.A.K.Manikkam,
Special Government Pleader

O R D E R

The order dated 04.01.2022 passed by the 1st respondent is under challenge in the present writ petition. Further direction is sought for to forbear the 1st respondent from reducing the scale of pay of the petitioner and effect recovery.

2.The petitioner is working as Wireman in the Social Defence Department. On account of an audit objection and on identification of certain errors in fixation of pay, the 1st respondent initiated



action with reference to the Ray Rules and accordingly, revised the scale of pay of the petitioner and consequently, informed that separate orders will be passed providing details regarding the recovery to be made.

3.The learned counsel appearing for the petitioner made a submission that even for re-fixation, an opportunity is to be provided to the petitioner, as he may have certain defence on re-fixation. Thus, the order impugned is in violation of the principles of natural justice.

4.This Court is of the considered opinion that if any order, affecting the service conditions of an employee is passed, then an opportunity must be provided to the employee concerned to submit his explanations or objections. Therefore, no order can be passed affecting the service conditions, without providing opportunity to the employee concerned. This being the basic principle to be followed, the authorities are bound to provide an opportunity.

5.As far as the impugned order is concerned, in one paragraph, the 1st respondent has stated that separate orders will be passed. However, in the next paragraph, it is stated that re-fixation will be given effect to. However, even for re-fixation, an opportunity must be provided. This being the factum, the order impugned dated 04.01.2022 shall be treated as show cause notice for all purposes and no action needs to be taken based on the impugned order dated 04.01.2022. The petitioner has already received the impugned order and filed the present writ petition. Therefore, the petitioner is directed to submit his explanations/objections along with the documents, if any, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the explanation, the 1st respondent is directed to consider the explanation on merits and pass appropriate orders in accordance with law within a period of four weeks thereafter.

6.With the above directions, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

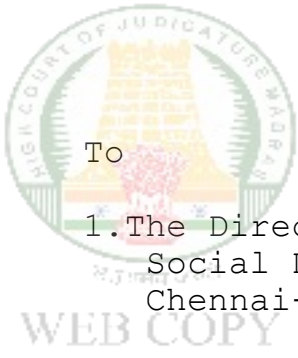
Assistant Registrar (Records)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Director of Social Defence,
Social Defence Department,
Chennai-10.

2.The Assistant Director,
Local Fund Audit Department,
Thoothukudi District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-6079[F] dated 15/02/2022)

+1 CC to M/s.SPL GP (SR-6225[F] dated 15/02/2022)

W.P.(MD) No.2873 of 2022
14.02.2022

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