



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.27109 of 2019

and

W.M.P. (MD) No.23444 of 2019

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A.Jegans Babu

... Petitioner

vs.

1.The Principal Secretary
Finance (Pay Cell) Department
St.George Fort, Chennai

2.The Joint Director of Agriculture
Collectorate Campus
Annex Building First Floor
Nagercoil, Kanyakumari District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records pertaining to the impugned order No.Ni2/6637/2019 dated 15.11.2019 passed by the 2nd respondent and quash the same as illegal and consequently to direct the respondents to retain the petitioner in the post of Selection Grade Assistant Seed Officer for the period the petitioner worked so.

For Petitioner : Mr.V.Rajiv Rufus

For Respondents : Mr.A.K.Manikkam

Special Government Pleader

O R D E R

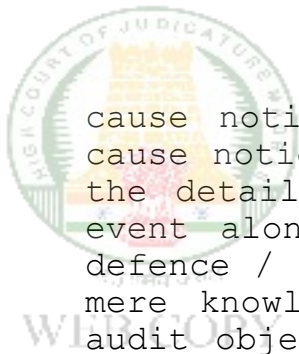
The order of recovery dated 15.11.2019, passed by the second respondent, is under challenge in this writ petition.

2. The impugned order of recovery was issued based on the audit objection raised with reference to the excess payment made to the petitioner on erroneous fixation of pay.

3. The main ground raised in this writ petition is that no opportunity was provided to the petitioner before passing the impugned order of recovery.

4. The counter affidavit filed by the second respondent reveals that the petitioner was aware of the audit objection relating to pay fixation in the post of Assistant Seed Officer.

5. This Court of the view that the mere knowledge about the audit objection would be insufficient nor to be construed as a show



cause notice providing an opportunity to the petitioner. A show cause notice must be issued providing an opportunity by setting out the details seeking explanations from the petitioner. In such an event alone the petitioner would be in a position to submit his defence / explanation along with documents, if any. Therefore, the mere knowledge about the audit objection or communication of the audit objection will not fulfill the requirement of the principles of natural justice.

6. Any order affecting the service conditions of the employee must be passed only after providing an opportunity to defend his case. In the present case, except by stating that the petitioner had knowledge regarding audit objection, no show cause notice in the manner known to law was issued to the petitioner enabling him to defend his case.

7. In such view of the matter, the writ petition is allowed and the order dated 15.11.2010, passed by the second respondent, is quashed. The matter is remanded back to the respondents for fresh consideration. The respondents are directed to issue a show cause notice to the petitioner setting out the facts and details, within a period of four weeks from the date of receipt of a copy of this order and on receipt of the show cause notice, the petitioner is directed to submit explanation / objection along with documents, if any, within a period of two weeks thereafter. Thereupon, the competent Authority shall consider the explanation and take a decision on merits and in accordance with law and pass final orders as expeditiously as possible. No orders. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

krk

To:

- 1.The Principal Secretary,
Finance (Pay Cell) Department,
St.George Fort, Chennai.
- 2.The Joint Director of Agriculture,
Collectorate Campus,
Annex Building First Floor,
Nagercoil, Kanyakumari District.



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+1 CC to M/s.SPL GP (SR-6845[F] dated 17/02/2022)

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KM(CO)

KB(24.02.2022) 3P 4C