



WEB COPY



W.P. No. 13561 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**W.P. No. 13561 of 2012
and
M.P. Nos. 1 and 2 of 2012
and
W.M.P. No. 20672 of 2017**

K.Mohan

... Petitioner

-VS-

1. Principal Secretary
Government of Tamil Nadu
Health and Family Welfare Department
St. George Fort, Chennai.

2. The Director (i/c)
Institute of Mental Health
Kilpauk, Chennai.

...

Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the recovery of salary order issued by Second Respondent in his proceedings in Ref. No.6018/E2/2012 dated 08.05.2012 quash the same and consequently direct the Respondents to pay continuously the same pay scale of 9300-34800 Gr.Pay 4500 by considering the Petitioner's representation dated 11.05.2012.



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For Petitioner : Ms. K.Parvin Babu
For Respondents : Mr. P.Sathish,
Additional Government Pleader

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ORDER

Heard Ms. K.Parvin Babu, Learned Counsel for the Petitioner and Mr. P.Sathish, Learned Additional Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner was appointed to the post of Social Worker by the Second Respondent on 31.08.2010 after conducting an interview for that post. According to the Respondents, though the time scale of pay for that post was Rs. 5,200/- - Rs. 20,200/- + Grade Pay of Rs. 2,400/-, an higher scale of pay was implemented by mistake and an order for recovery of excess payment of Rs. 2,32,624/- was passed by the Second Respondent by Proceedings in Ref. No.6018/E2/2012 dated 08.05.2012, which is assailed by the Petitioner in this Writ Petition.

3. It has been brought to notice that the Government of Tamil Nadu in G.O. (Ms). No. 34, Health and Family Welfare (AA1) Department dated 11.02.2019



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has made amendments to the Special Rules for the Tamil Nadu Medical

Subordinate Services which have come into force with retrospective effect from 21.10.1994 and the appointment of the Petitioner in the post of Social Worker would be governed by the same with consequential monetary benefits. In such circumstances, the impugned order is set aside and the matter is remitted to the Second Respondent to determine as to whether any liability for excess payment of salary still exists and take a fresh decision on merits and in accordance with law and if any recovery for excess payment has to be made, the procedure laid down in the instructions in G.O. Ms. No. 286, Finance (Pension) Department dated 28.08.2018 issued by the Government of Tamil Nadu shall be followed affording an opportunity of personal hearing to the Petitioner in consonance with the principles of natural justice and its outcome shall be informed to the Petitioner under written acknowledgment.

In fine, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

29.08.2023

Maya

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 29.05.2024.



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To

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Government of Tamil Nadu
Health and Family Welfare Department
St. George Fort, Chennai.
2. The Director (i/c)
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Kilpauk, Chennai.



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P.D. AUDIKESAVALU, J.

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