



WEB COPY



W.P.No.1582 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No. 1582 of 2020
and
W.M.P.No.1851 of 2020

C.Annadurai

.... Petitioner

Vs

1. The Joint Director of Agriculture,
Dharmapuri – 636 005.

2. The Deputy Director of Horticulture,
Dharmapuri – 636 005.

.... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the concerned records from the second respondent, quash the order of the first respondent dated 26.12.2017 bearing No.A2/4731/2016 as illegal, arbitrary and contrary to law and consequently direct the respondents to restore the pay of the petitioner and further direct the respondents to refund the recovery made from his salary as illegal, arbitrary and contrary to law and consequently direct the respondents to restore the pay of the petitioner and further direct the respondents to refund the recovery made from his salary.



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For Petitioner : Mr.Balan Haridas
For Respondents : Mr.V.Manoharan
Additional Government Pleader

ORDER

This Writ Petition has been filed as against the order passed by the first respondent dated 26.12.2017, thereby re-fixed the salary of the petitioner and ordered to recover the excess amount.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner was appointed as Junior Assistant on 17.05.1991. He was granted Selection Grade in the post of Junior Assistant and his pay was fixed in the scale of pay of Rs.9,300-34,800+Grade pay of Rs.4,200/- with effect from 01.01.2006 and monetary benefits were given with effect from 01.02.2011. As per G.O.Ms.No.234, dated 01.06.2009 and as per the Tamil Nadu Revised Scale of Pay Rules, 2009, his salary was fixed as Rs.13,500 + Rs.4,200 with effect from 01.01.2006. The benefit was given notionally from 01.01.2006 and monetary benefit was given with effect from 01.02.2011.



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4. While being so, there was an audit objection for fixation his grade pay as Rs.4,200/- in the post of Junior Assistant with effect from 01.01.2006 and monetary benefits with effect from 01.02.2011. The grade pay shall be Rs.2,800/- with effect from 01.01.2006 instead of Rs.4,200/-. Therefore, the petitioner was served with notice on 24.08.2016 and thereafter, the first respondent passed an order dated 26.12.2017. Accordingly, the petitioner was paid excess amount of Rs.4,87,872/- by wrong fixation of pay and grade pay from February 2011 to November 2017. The recovery was ordered by installments. Though the order has been passed in the year 2017, it has been challenged by way of writ petition in the year 2020. So far, a sum of Rs.1,23,376/- had already been recovered from the petitioner's salary.

5. Admittedly, the excess amount was paid not on the false representation of the petitioner or any fraud played by him. Further, the learned counsel for the petitioner submitted that the petitioner is not in possession of the impugned order so far as which relates to revising the scale of pay. But the recovery should not be made not on the fault of the respondent, when the said payment was made not on the fault of the petitioner.



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6. In view of the above, insofar as the revised scale of pay is concerned, this Court finds no infirmity or illegality in the order passed by the first respondent dated 26.12.2017. Accordingly, the prayer sought for in this writ petition to revise the scale of the petitioner is dismissed. Insofar as the recovery is concerned, the order passed by the first respondent dated 26.12.2017 cannot be sustained and it is liable to be quashed. Accordingly, the order impugned to recover the excess amount in this writ petition is hereby quashed.

7. In the result, this writ petition stands partly allowed. Consequently, connected miscellaneous petition is closed. No costs.

13.08.2024

Internet : Yes
Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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To
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1. The Joint Director of Agriculture,
Dharmapuri – 636 005.
2. The Deputy Director of Horticulture,
Dharmapuri – 636 005.



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G.K.ILANTHIRAIYAN, J.

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