



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2024

CORAM

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.1646 of 2020
and WMP.No.1915 of 2020

Dr.P.T.Chitra,
Working as Programme Assistant (Animal Husbandry),
Peunthalaivar Kamaraj Krish Vigyan Kendra, Puducherry,
Residing at No.83, Mariamman Kovil Street,
Boomianpet, Puducherry - 605 005.

... Petitioner

Vs

1.The Secretary to Government (AHD)-cum-Chairman,
Perunthalaivar Kamaraj Krish Vigyan Kendra,
Kurumbapet,
Puducherry – 605 009.

2.The Member Secretary,
Karaikal Krish Vigyan Kendra Society,
Madur,
Karaikal – 609 607.

3.The Principal-cum-Programme Co-ordinator,
Perunthalaivar Kamaraj Krish Vigyan Kendra,
Kurumbapet,
Puducherry – 605 009.

4.The Under Secretary to Government (Fin.),
Government of Puducherry,
Finance Department,
Secretariat,
Puducherry.



5.The Director,
Government of India,
Ministry of Finance,
Department of Expenditure,
New Delhi.

6.The Director General,
Indian Council of Agricultural Research (ICAR),
Krishi Bhavan,
Dr.Rajendra Prasad Road,
Opp.Rail Bhavan,
New Delhi – 110 001.

7.The Director,
Agricultural Technology Application Research Institute (ATARI),
CRIDA Campus,
Santosh Nagar,
Hyderabad – 500 059.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, calling for the records relating to impugned office order No.225/PKKVK/Estt/NPA/2019-20 dated 30.12.2019 issued by the 3rd respondent and quash the same as highly illegal, unlawful, arbitrary, discriminative, unreasonable, untenable and unconstitutional as violative of Article 14 and 21 of Constitution of India and consequently direct the respondent Nos.1 to 3 to grant arrears of Non-practicing Allowance (NPA) to the petitioner at the rate of 25% of the aggregate of the band pay and grade pay by strictly in adherence to Office Memorandum F.No.7(19) /2008-E.III (A), dated 30.08.2008 issued by the 5th respondent and I.D.Note/Memorandum



dated 14.09.2008 issued by the 4th respondent based on the recommendation of Sixth Central Pay Commission with effect from 14.09.2008.

For Petitioner : Mr.Prakash Adiapadam

For Respondents : Mr.M.Nirmal Kumar
Government Advocate(P)
for R1 to R5
Dr.S.R.Sundaram
for R6 and R7

ORDER

The petitioner herein who was appointed as a Programme Assistant (Animal Husbandry) vide proceedings No.PKKVK/Estt./Appn/09, dated 24.09.2009 by the 3rd respondent made claim for grant of Non-Practicing allowance by submitting a representation before the 3rd respondent. The 3rd respondent having considered the claim of the petitioner issued impugned Office Order No.225/PKKVK/Estt/NPA/2019-20 dated 30.10.2014 granting Non-practicing allowance at the rate of 25% of her basic pay w.e.f 01.11.2014 payable along with her monthly emoluments. The said order was purported have been issued in consonance with the Government Order passed in F.No.7(19) /2008-E.III (A), dated 30.08.2008 of Department of Expenditure, Ministry of Finance, Government of India.



2. The petitioner started drawing the said allowance at the rate of 25% Basic Pay. However, without following due process of law 3rd respondent issued the impugned Office Order No.225/PKKVK/Estt/NPA/2019-20 dated 30.12.2019 withdrawing the said allowance and also ordered for recovery of the amount that is already paid to the petitioner by then. Aggrieved by the said Office order dated 30.12.2019, the petitioner approached this Court by filing writ petition. This Court while entertaining writ petition passed interim order dated 27.01.2020, staying operation of the impugned order. The respondents 1 to 4, 5 and 6 filed detailed counter affidavit to sustain the impugned order.

3. Though the counsel on either side made elaborate submissions, this Court is not inclined to go into the merits of the case at this stage for the simple reason that the impugned order came to be passed without following the principles of natural justice and for the very same reason, this Court also passed an interim order dated 27.01.2020, staying the operation of the impugned order. The said interim order is an operation as on date. Though an elaborate counter filed by the respondents, there is no possible explanation that is offered for not following principles of natural justice in issuing the



impugned order. Through proceedings dated 30.10.2014, the financial benefit that was conferred upon the petitioner and allowed to draw the same for more than a year, was withdrawn causing financial loss to the petitioner.

4. In such circumstances, the respondent ought to have put the petitioner on notice and ought to have taken a decision as to the withdrawal of the benefit conferred upon the petitioner. But for the reasons best known to the respondents, without following the procedure, passed the impugned order. In the light of the above, this Court is convinced that the impugned order cannot be sustained on the ground of violation of principles of natural justice. Accordingly, the impugned order is set aside. However, it is open to the respondents to take appropriate steps in accordance with law.

5. Accordingly, this Writ petition is allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

24.06.2024

Index : Yes/No
Speaking order / Non-speaking order
Neutral Citation Case : Yes/No
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