



W.P.No.34307 of 2013

For R1 : Mr.S.Rajesh
Government Advocate (Forest)

For R2 : M/s.Vijayakumari Natarajan
Standing Counsel

ORDER

This writ petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order of the 2nd respondent in Proc.No.K.Dis.TNPC Bd/Per/P5/038557/2013 dated 07.11.2013 and direct the 2nd respondent to restore the pay fixation as existed prior to the issue of the impugned order and grant all consequential benefits to the petitioner.

2. The case of the petitioner is that he was initially appointed as Typist and on completion of ten years of service, he was moved to Selection Grade in the post of Typist. Thereafter, he was promoted as General Assistant. Since the Selection Grade pay in the post of Typist and the Ordinary Grade pay in the promotional post of General Assistant were one and the same, the petitioner was granted Selection Grade pay in the post of General Assistant. Thereafter, vide the impugned order, the petitioner pay was re-fixed and the Selection Grade increment already awarded was cancelled and recovery of the excess amount was ordered. Hence, this writ



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3. Learned counsel appearing for the petitioner submitted that Selection Grade pay in the post of General Assistant was granted to the petitioner by the respondents only after following due process of law, by considering the length of service rendered by the petitioner. However, without issuing any show cause notice and without hearing the petitioner, the impugned order of recovery was passed which is *non est in law* and against the principles of natural justice.

4. Learned counsel appearing for the 2nd respondent fairly conceded that the impugned order was issued without issuing any show cause notice, which is against the principles of natural justice. He further submitted that this Court may remand the matter back to the 2nd respondent for complying with the principles of natural justice.

5. Considering the submissions made by the learned counsel appearing for the petitioner as well as by the learned counsel appearing for the 2nd respondent and this Court perused the impugned order, on perusal it reveal no opportunity was provided to the petitioner, hence,



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this Court is inclined to set aside the impugned order passed by the 2nd respondent and to remit the matter back to the 2nd respondent for fresh consideration.

6. In view of the above factual matrix of the case, the impugned order passed by the 2nd respondent in Proc.No.K.Dis.TNPC Bd/Per/P5/038557/2013 dated 07.11.2013 is liable to be quashed and the same is hereby quashed. The matter is remitted back to the 2nd respondent for fresh consideration. The 2nd respondent shall issue show cause notice to the petitioner and shall proceed with the matter in accordance with law.

In the result, the writ petition stands allowed. No costs.

26.03.2024

cda
Index : Yes/No
Speaking / Non-Speaking Order



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To

- 1.The Secretary to Government,
Government of Tamil Nadu,
Environment & Forests Department,
Fort St.George, Chennai – 600 009.
- 2.The Member Secretary,
Tamil Nadu Pollution Control Board,
76, Mount Salai, Guindy,
Chennai – 600 032.

J.SATHYA NARAYANA PRASAD, J.

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