



W.P.No.34308 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 26.03.2024**

CORAM:

**THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD**

**W.P.No.34308 of 2013**

R.Thangachamy

...Petitioner

-Vs-

1.The Government of Tamil Nadu,  
represented by the Secretary to Government,  
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.

...Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the 2<sup>nd</sup> respondent in Proc.No.K.Dis.TNPC Bd/Per/P5/038297/2013-2 dated 06.11.2013 and quash the same and direct the 2<sup>nd</sup> respondent to restore the pay fixation as existed prior to the issue of the impugned order and grant all consequential benefits to the petitioner.

For Petitioner : Mr.P.Mohanraj



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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 2<sup>nd</sup> respondent in Proc.No.K.Dis.TNPC Bd/Per/P5/038297/2013-2 dated 06.11.2013 and direct the 2<sup>nd</sup> 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 Assistant and on completion of ten years of service, he was moved to Selection Grade in the post of Assistant. Thereafter, he was promoted as General Assistant. Since the Selection Grade pay in the post of Assistant 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 2<sup>nd</sup> 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 2<sup>nd</sup> 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 2<sup>nd</sup> 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 2<sup>nd</sup> respondent and to remit the matter back to the 2<sup>nd</sup> respondent for fresh consideration.**

**6. In view of the above factual matrix of the case, the impugned order passed by the 2<sup>nd</sup> respondent in Proc.No.K.Dis.TNPC Bd/Per/P5/038297/2013-2 dated 06.11.2013 is liable to be quashed and the same is hereby quashed. The matter is remitted back to the 2<sup>nd</sup> respondent for fresh consideration. The 2<sup>nd</sup> 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.**

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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,  
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- 2.The Member Secretary,  
Tamil Nadu Pollution Control Board,  
76, Mount Salai, Guindy,  
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**J.SATHYA NARAYANA PRASAD, J.**

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