



WEB COPY



WP.No.17145 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2024

CORAM

THE HON'BLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.No.17145 of 2024

Kumarasamy

... Petitioner

Vs.

1. The Director of Collegiate Education,
College Road,
Chennai 600 006.

2.The Principal,
Government Arts College,
Vellore 632 006.
Vellore District.

3.The Accountant General (A& E) of Tamil Nadu
Office at D.M.S. Compound,
Chennai 600 018.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the entire records which culminated in passing the proceedings in Na.Ka.No.54/A/2022 dated 22.02.2022 as well as the consequential proceedings in Na.Ka.No.155/A/2022 dated 04.05.2022, both on the file of the second respondent, quash the same and consequently direct the respondents to



WP.No.17145 of 2024

restore the pensionary benefits received by the petitioner in the cadre of Lab Assistant prior to the impugned orders and also to pay the arrears of pension amount which was withheld.

For Petitioner : Mr.P.Ganesan

For Respondents : Mr.R.Kumaravel, AGP for RR1 & 2

: Mrs.Hema Muralitharan for R3.

ORDER

This Writ Petition is filed with a prayer challenging the impugned order dated 22.02.2022. By the said order, it can be seen that even though the petitioner was working as a Lab Assistant and even as of the date of his retirement, he has been considered as record clerk, and accordingly, it is ordered that the petitioner's salary be refixed and the excess amount be recovered.

2. Mr. P. Ganesan, the learned counsel appearing on behalf of the petitioner, would submit that the order proceeds on the basis as if he had earlier reverted to the post of gardener. As far as the earlier order of reversion is concerned, the same was cancelled, and subsequently, the Writ Petition, in which the reversion was challenged was dismissed as infructuous. In that



WP.No.17145 of 2024

view of the matter, the impugned order is factually incorrect. Secondly, it can be seen that the same is passed without affording the petitioner an opportunity.

3. When the matter came up for admission, Mr. R. Kumaravel, the learned Additional Government Pleader, took notice of the respondents 1 and 2 and submitted that indeed no show cause notice was issued before passing the impugned order. When the impugned order visits the petitioner with civil consequences, and especially when the petitioner has raised a defense, the non granting of an opportunity causes grave prejudice to the petitioner.

4. In view thereof, this Writ petition is allowed on the following terms:

(i) The impugned order dated 22.02.2022 shall stand quashed. However, the respondents will be at liberty to carry out the exercise afresh by giving an opportunity to show cause to the petitioner, and the petitioner will be entitled to submit his objections, and the objections thereto will be considered objectively and orders thereupon passed afresh.



WEB COPY



WP.No.17145 of 2024

D.BHARATHA CHAKRAVARTHY, J.

jrs

(ii)No costs.

28.06.2024

Neutral Citation :No

jrs

To

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W.P.No.17145 of 2024

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