

(2014) 11 MAD CK 0526

Madras High Court

Case No: Writ Petition Nos. 15113, 15896 of 2014, M.P. Nos. 2, 2, 3, 3 and 4 of 2014

M. Madheeswaran

APPELLANT

Vs

The Managing Director
Sagoserve Salem Starch and
Sago Manufacturers Service
Industrial Co-operative Society
Ltd.

RESPONDENT

Date of Decision: Nov. 14, 2014

Hon'ble Judges: M. Sathyanarayanan, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

M. Sathyanarayanan, J.

By consent, both the writ petitions are taken up for final disposal.

2. The petitioners, who are in the services of the respondent, aggrieved by the impugned order dated 13.1.2014, in and by which, the excess salary fixed and paid, is sought to be recovered from them, have filed these writ petitions.

3. The grievance expressed by the petitioners, is that before passing the said order, they have not been afforded with any opportunity whatsoever, and therefore, came forward to file the respective writ petitions.

4. The respondent in paragraph No. 8 of the affidavit filed in support of the vacate stay petition being M.P.No. 3 of 2014 in W.P.No. 15113 of 2014, would state that as per the Finance Department's letter dated 8.11.2010, G.O.Ms.No. 45, Finance (Pay Cell) Department, dated 10.2.2011, the Selection Grade/Special Grade Pay payable to the employees prior to 1.1.2006, whose cases the ordinary grade scale of pay was revised based on the recommendation of One Man Commission, was revised, based on which, the petitioner's (W.P.No. 15113/2014) Selection Grade Pay in the cadre of Junior Assistant was fixed as Rs. 5200-20200+GP2800. The respondent would further

aver that further, it was wrongly calculated and fixed as Rs.9300-34800+GP4200 and on noting the same, the impugned proceedings came to be passed for recovery and also took a stand that in any event, the petitioners are not entitled to the benefit accrued out of wrong fixation of scales of pay.

5. Mr.C.Prakasam, learned Counsel appearing for petitioners, would submit that even assuming without admitting, that the impugned proceedings are sustainable, admittedly, no opportunity whatsoever has been provided to the petitioners and hence, on the sole ground, the impugned order is liable to be interfered with.

6. Per contra, Mr.L.P.Shanmugasundaram, learned Special Government Pleader, appearing for the respondent, has drawn the attention of the Court to the affidavit filed in support of the vacate stay petition, and would submit that due to inadvertent error, the scales of pay of the petitioners were wrongly fixed and taking into account the said aspect only, their scales of pays were re-fixed. It is also contended by the learned Additional Government Pleader that since the petitioners have given undertaking that in the event of wrong fixation, recovery can be effected, the impugned order came to be passed. Therefore, he prayed for dismissal of the writ petitions.

7. This Court, after carefully considering the rival submissions, is of the view that the impugned order is liable to be interfered with and the matter be remanded once again to the respondent for fresh adjudication.

8. A perusal of the contents of the impugned order would disclose that before effecting recovery, no opportunity whatsoever, has been afforded to the petitioners. Admittedly, the impugned orders visit the petitioners with civil consequences and therefore, the respondent should have put them on notice; but, they have not been given any opportunity to put forth their case before re-fixing the scales of pay with consequential reduction/recovery and hence, on the sole ground, impugned orders are liable to be interfered with.

9. In the result, the writ petitions are partly allowed and the impugned orders dated 13.1.2014, are set aside and remitted back to the respondent for fresh adjudication. The respondent shall afford an opportunity of personal hearing to the petitioners and pass fresh orders on merits and in accordance with law as expeditiously as possible and not later than eight weeks from the date of receipt of copy of this order. No costs. Consequently, connected MPs are closed.