
(2011) 09 MAD CK 0313

In the Madras High Court

Case No : Writ Petition (MD) No. 2403 of 2006 in O.A. 7869 of 1997

Ramakrishnan and Others

APPELLANT

Vs

The Superintendent Engineer, P.W.D. Compound, Ground Water Circle, Thallakulam, Madurai-2 and The Executive Engineer, Ground Water Division, Karaikudi

RESPONDENT

Date of Decision : 19-09-2011

Acts Referred:

Citation : (2011) 09 MAD CK 0313

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : M. Raviin in all W.Ps", for the Appellant; S. Bharathi in all W.Ps" Govt. Advocate, for the Respondent

Final Decision : Allowed

Judgement

Vinod K. Sharma, J.—The petitioners in all these Writ petitions prays for issuance of a Writ in the nature of Certiorari, to quash the orders passed by the Superintending Engineer, P.W.D Compound, Ground water Circle, Madurai and Executive Engineer, Ground Water Division, Madurai, cancelling the orders of revision of pay scale, and recovery, of excess payment.

2. The petitioners were appointed as Work Assistant on different dates, and

3. The State of Tamil Nadu vide G.O.Ms.1632, P.W.D, dated 26.10.1997, decided promoted to the post of Work Inspector in Ground Water Division. to merge the post of Work Attendants, with qualification of SSLC and above with the post of Work Inspector, though placed in the lower pay scale, then that of the Work Attendants. The Work Attendant, who were S.S.L.C failed were merged with the lower grade post of Inspector Grade-II. The Work Attendants holding the qualification of Diploma, were merged in the cadre of Technical Assistant.

4. The Petitioners, being S.S.L.C qualified filed representations with the respondents to merge their post with Work Inspector Grade-I, on the plea that

once the post carrying lesser pay scale stood merged with that of Work Inspector Grade-I, the petitioners were also entitled to the similar treatment.

5. The Hydro-Geologists, Ground Water Division, Madurai vide order, dated 27.02.1978, re-designated the post of Work Assistant as Work Inspector Grade-I with regard to persons holding qualification of S.S.L.C w.e.f from the date of initial appointment.

6. The Executive Engineer, Ground Water Division, Karaikudi vide order No.3709/91/3/E, dated 18.09.1996 also re-designated the petitioners as Work Inspector Grade-I w.e.f.18.08.1972 and re-fixed their pay in the scale of Work Inspector Grade-I.

7. The pay of the petitioners was thereafter re-fixed on the recommendation of Third Pay Commission, Fourth Pay Commission, Fifth Pay Commission, and the petitioners were also held entitled to draw arrears w.e.f.01.04.1995.

8. The petitioners made representations for re-fixation of their salary retrospectively w.e.f. 26.10.1977.

9. The case of the petitioners, is that on receipt of the representations, the respondents vide their orders, dated 26.08.1997 cancelled the orders of re-designation and re-fixation of their salary, which resulted in reduction of pay-scale.

10. It was further ordered that the excess payment made to the petitioners be also recovered.

11. The petitioners have challenged the impugned orders to be violative of principles of natural justice, and on the ground of discrimination, by submitting that some of the similarly situated employees were also re-designated but have been allowed to continue in the revised pay-scale.

12. There is no necessity to go into the merit, as to whether the petitioners were entitled to re-designation or not.

13. It is suffice to hold that the impugned orders cannot be sustained, as these were passed in violation of the principles of natural justice. It is well-settled law, that an order affecting the civil rights of a person cannot be passed, without complying with the principles of natural justice; by giving an opportunity to explain his stand against proposed action, and by recording a well reasoned speaking order.

14. Consequently, these Writ Petitions are allowed. The impugned orders are set aside.

15. The respondents shall however be at liberty to pass orders afresh after giving opportunity of hearing to the petitioners and meeting with their contentions if any, raised against the proposed re-fixation.

16. Consequently, connected Miscellaneous Petition is closed. No costs.