

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.P. No.25799 of 2015

G.Victoria

.. Petitioner

Vs.

- 1.The State of Tamil Nadu,
rep by its Principal Secretary to Government,
Home (Cts-V) Department,
Fort St. George,
Chennai-600 009.
 - 2.The Registrar General,
High Court of Judicature at Madras,
Chennai-600 104.
 - 3.The Principal District Judge,
City Civil Court,
Chennai-600 104.
 - 4.The Registrar,
City Civil Court,
Chennai-600 104.
- .. Respondents

The writ petition is filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records relating to the proceedings of the fourth respondent in his official memorandum Dis.No.6062/2014 dated 5.6.2014, quash the same and direct the respondents to consider the case of the petitioner with effect from the date on which the benefit of G.O.Ms.No.329, Home (Cts-V) Department dated 23.4.2009 was given to other similarly placed Assistants in other Districts including re-fixation of pension on the basis of the re-fixed scale of pay on the date of retirement.

For petitioner : Mr.P.Mani

For Respondents : Mrs.A.Srijayanthi, Spl.G.P. For R-1
Mr.R.Sureshkumar for RR2 to 4

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

The petitioner is stated to be appointed on the post of Reader in the City Civil Court on 28th September, 1983, thereafter was continued to work as such till 29th August, 1985. Further, she was appointed as Process Writer on regular post in February, 1988. After having promoted to the subsequent post, she was finally promoted as Selection Grade Assistant with effect from 1st September, 2009 and retired from service on 31st July, 2011. The petitioner made a representation to extend the benefit of Government Order in G.O.Ms.No.329, Home (Courts V) Department dated 23rd April, 2009, which was declined on the ground that the benefits of the order passed by this court in W.P.No.14398 of 2012 was extended to the petitioner therein alone.

2 An identical issue came up for consideration in the matter of K.Meganathan Vs. State of Tamil Nadu and others, whereunder, the petitioner working as Assistant (Selection Grade) filed the petition, seeking the benefits as available under G.O.Ms.No.329 dated 23rd April, 2009. The respondents therein clearly in their response submitted that the benefit available under the said G.O was granted to all employees working in other District Courts and Mofussil courts, except in various courts in Chennai.

3 A Division Bench of this court, vide order dated 22nd January, 2014 allowed the writ petition, holding as under :

"12 There is no gain-saying that the similarly-situated Assistants posted in Mofussil Courts have been granted benefits on the basis of their seniority, however, the same was denied to the petitioner as the authorities could not consider the case of the petitioner and other similarly situated employees in various Courts situated in Chennai, in time. As held supra, it was a case of upgradation of post and not promotion and as such, the employee was entitled to the benefit of upgradation from the date on which the other similarly-situated Assistants in other Districts and Mofussil Courts have been granted the benefit.

13 For the reasons afore-stated, the impugned order dated 02.05.2012 is set aside and the respondents are directed to consider the case of the petitioner with effect from the date on which the benefit was given to the other similarly-situated Assistants in other Districts. The petitioner shall also be entitled to the benefit of re-fixation of his pension on the basis of the pay scale granted to him at the time of his retirement.

The aforesaid exercise shall be completed within a period of four months from the date of receipt of a copy of this order."

The present petitioner is also similarly situated.

4 The fourth respondent has filed a counter affidavit, in response to the notice, wherein it is inter-alia stated as under :

"12.I submit that a list of retired employees between the two cut off dates i.e. 13.10.2009 and 10.05.2012, numbering 91 (including the Writ Petitioner and the said Thiru.K.Meganathan) is herewith filed along with the Counter Affidavit. If the principle as indicated in the Order of this Hon'ble Court, dated 22.01.2014 in W.P.No.14398/2012 is taken as basis to extend the benefit of the G.O.Ms.No.329, Home (Courts V) Dept., dt. 23.04.2009 to other similarly placed persons as that of Thiru.K.Meganathan, all the 90 persons (List annexed herewith) are also to be considered, as these persons also are similarly placed comparing with the said Thiru K.Meganathan.

13.I submit that, in view of the above stated facts and circumstances, it is respectfully prayed that a suitable order may be passed so as to take a comprehensive decision administratively for the benefits of all similarly placed employees (retired) within the said two cut off dates i.e. w.e.f. 13.10.2009 to 10.05.2012, and thus render justice."

5 Having regard to the aforestated categorical stand taken by the respondents that the employees working in various courts in Chennai were denied benefit of the said circular, we are of the considered view that all employees are entitled to the said benefits. Accordingly, we allow the writ petition, directing the respondents to consider the cases of all similarly situated Assistants and grant benefits to them by refixation of pension, on the basis of pay scale granted to them at the time of their retirement. The entire exercise shall be completed within a period of four months from the date of receipt of copy of this order.

6 Resultantly, this writ petition stands allowed. No costs.

Sd/-

Asst.Registrar (CS III)

/true copy/

vvk

Sub Asst. Registrar

To

1.The Principal Secretary to Government,
The State of Tamil Nadu,
Home (Cts-V) Department,
Fort St. George,
Chennai-600 009.

2.The Registrar General,
High Court of Judicature at Madras,
Chennai-600 104.

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City Civil Court,
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City Civil Court,
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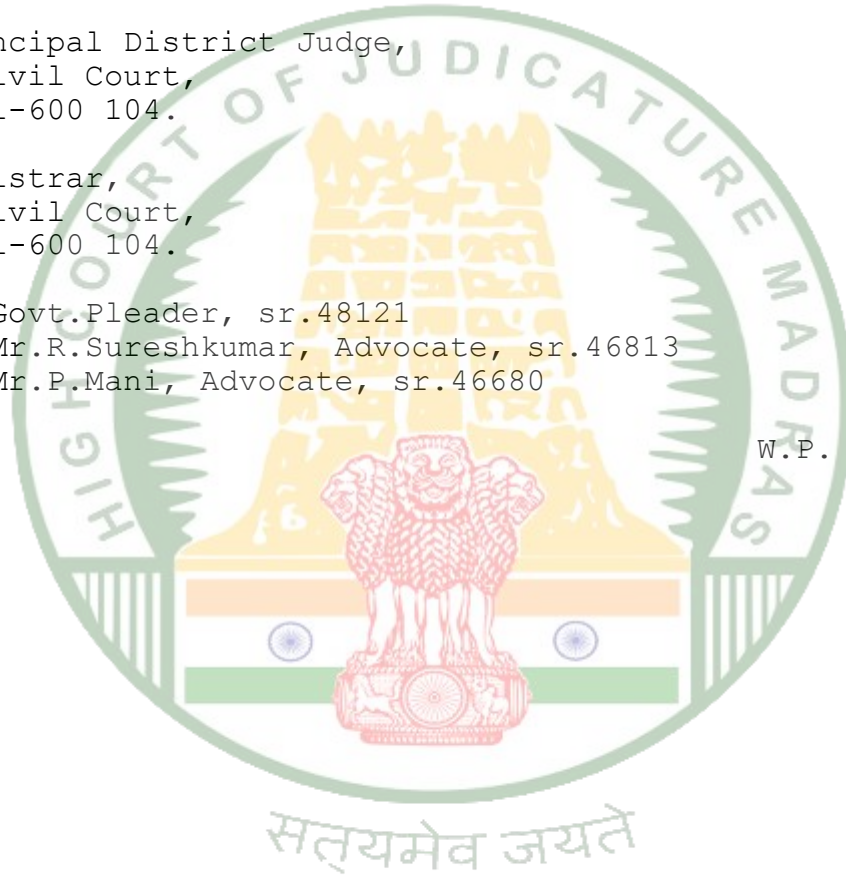
+1 cc to Govt.Pleader, sr.48121

+1 cc to Mr.R.Sureshkumar, Advocate, sr.46813

+1 cc to Mr.P.Mani, Advocate, sr.46680

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