

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 16.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.33420/2015

R.Manickam

.. Petitioner

Versus

1.The Secretary to Government,
Finance (PGC) Department,
Secretariat,
Chennai - 600 009.

2.The Director,
Local Fund Audit Department,
4th Floor,
Kuralagam,
Chennai - 600 108.

3.The Commissioner,
Salem City Municipal Corporation,
Salem - 1.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for a writ of mandamus directing the respondents to extend the benefit of G.O.Ms.No.363 Finance (PGC) Department dated 23.08.2013 by treating the Dearness Allowance and Additional Dearness Allowance applicable in the pre-revised scale of pay sanctioned from time to time as Dearness pay for the entire 10 months proceeding the petitioner's retirement for the purpose of revision of pension.

For Petitioner : Mr.V.Thirupathy
For R1,R2 : Mr.V.Subbiah, Spl.Govt.Pleader
For R3 : Mrs.K.Bhuvaneswari

ORDER

By consent, the writ petition is taken up for final disposal.

2 The petitioner retired from service on 30.04.1994 as Assistant Revenue Officer in the service of the erstwhile Salem Municipality, now Salem City Municipal Corporation. He would state that the Finance [Pay Commission] Department has issued G.O.Ms.No.810 dated 09.08.1989 revising the pension/Family Pension to those who retired between 01.10.1987 and 31.05.1988 and also treating the Dearness Allowance as Dearness Pay after merger, at percentage ranging from 8% to 13% of pay and it was put to challenge before the Tamil Nadu Administrative Tribunal in OA.No.1919/1991 and the Government Order was set aside and the SLP preferred, has also ended in dismissal on 01.12.1997 and in order to give effect to it, the Government has issued G.O.Ms.No.271, Finance [Pension] Department, dated 15.06.1998, but once again gave benefits to those who retired after 01.06.1960 to 31.05.1988. The prescription of the cut-off date was once again put to challenge and the petitioners therein were successful and the State Government took the matter by way of an appeal in WA.Nos.1002/2006 and 9&95/2007 and the said writ appeals were allowed and the Special Leave Petitions preferred against the said judgment were allowed. Thereafter, to give effect to the government order, the same Department has issued G.O.Ms.NO.363 dated 23.08.2013 by extending the benefits of G.O.Ms.No.273 dated 15.06.1998 to those who retired on or after 01.06.1988 upto 31.12.1995. Since the petitioner is entitled to the benefit of the said Government Order, submitted a representation dated 05.11.2013 to the 3rd respondent and the 3rd respondent, in turn, has forwarded the proposal to the 2nd respondent. However, no orders have been passed. The petitioner also sent a reminder on 25.12.2013 to the 3rd respondent and since no orders have been passed, he came forward to file this writ petition.

3. This Court heard the submissions of the learned counsel for the petitioner and Mr.V.Subbiah, learned Special Government Pleader who accepts notice on behalf of the first and second respondents. Mrs.K.Bhuvaneswari, learned counsel who accepts notice on behalf of the third respondent.

4. Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances, directs the 2nd respondent to act on the proposal of the 3rd respondent in Na.Ka.No.C6/29905/2013 dated 21.11.2013 on merits and in accordance with law after taking note of G.O.Ms.No.363, Finance [PGC] Department dated 23.08.2013 and pass orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

5. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

AP

To

- 1.The Secretary to Government,
Finance (PGC) Department,
Secretariat,
Chennai - 600 009.
- 2.The Director,
Local Fund Audit Department,
4th Floor,
Kuralagam,
Chennai - 600 108.
- 3.The Commissioner,
Salem City Municipal Corporation,
Salem - 1.

+1 cc to M/s.V.Thirupathi Advocate sr.57269
+1 cc to M/s.K.Bhuvaneswari Advocate sr.57241
+1 cc to the Government Pleader High Court Madras
sr.57707

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