

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2015

CORAM:

The Honourable Mr.Justice K.K.SASIDHARAN

W.P.No.31178 of 2013
& M.P.No.1 of 2013

Tamil Nadu Retired Temple Employees
Association
Rep. by its President
Mr.C. Kandasamy
No.6/6, Rajiv Gandhi Street
Elango Nagar
Virugambakkam
Chennai-600 092.

...Petitioner

-Vs.-

1. The Secretary to Government
Tamil Development Culture and Religious
Endowment Department
Fort St. George
Chennai-600 009.
2. The Commissioner
Hindu Religious cum Charitable Endowment
Nungambakkam
Chennai- 600 034.

..Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus calling for the records relating to the letter of the first respondent in Government letter (P) No.142 dated 4 June 2012, quash the same and consequently direct the respondents to implement G.O. (Rt) No.397, Tamil Development, Hindu Religious Endowment and Information (HR4-1) Department dated 31 December 2009 with retrospective effect so as to enable the members of the petitioner's association to receive arrears of pension from 1 January 2006 to 1 January 2010.

For Petitioner : Ms.P. Gouri
For Respondents : Mr.S. Kandasamy
Spl. Govt. Pleader (H.R. & C.E.)

ORDER

The petitioners challenge the order dated 4 June 2012 on the file of first respondent rejecting the request to implement the Government Order in G.O.(Rt) No.397, Tamil Development, Hindu Religious Endowment and Information (HR4-1) Department, dated 31 December 2009 retrospectively.

The facts:

2. The petitioner is an association of Temple Employees who have worked in various posts in temples in the State of Tamil Nadu. The Government have sanctioned pension to Archagars as per order in G.O.Ms.No.346 dated 1 October 1992. The action taken by the Government to pay pension to Archagars made a trade union by name Thirukoil Paniyalargal Sangam, Ambasamudram to file a writ petition before this Court in W.P.No.3213 of 1997. This Court directed the Government to frame a scheme for giving retirement benefits to the temple servants. The Government finally accepted the decision and framed a scheme. The Government issued an order in G.O.Ms.Nos.54 and 55, Tamil Nadu Development Culture and Religious Endowment Department dated 13 February 2006 introducing Employment Provident Fund Scheme for payment of pension. The Government subsequently issued an order in G.O.Ms.No.397 dated 31 December 2009 introducing pension scheme for employees who retire during the period 1 January 1996 to 31 December 2005. However, it was given only prospective effect from 1 January 2010. Since benefits were not given retrospectively, the petitioners submitted a representation. The representation was rejected by the first respondent on the ground that it was a policy decision to give benefits prospectively. The said order is under challenge in this writ petition.

3. Heard the learned counsel for the petitioners and the learned Special Government Pleader appearing on behalf of the respondents.

Factual Analysis:

4. There is no dispute that originally there was no pension scheme for temple employees. It was only pursuant to the direction issued by this Court in Government of Tamil Nadu v. Thirukoil Paniyalargal Sangam, Ambasamudram (2011)1 CTC 141, the Government have issued orders granting pension to the temple employees. The Government issued an order in G.O.Ms.No.397 dated 31 December 2009 introducing a pension scheme for employees who have retired for the period from 1 January 1996 to 31 December 2005. The Government Order was issued only on 31 December 2009. The Government therefore introduced it with prospective effect from 1 January 2010. The petitioners now wanted retrospective effect to the said Government Order.

5. The Supreme Court in State of Bihar v. Bihar Pensioners Samaj, (2006) 5 SCC 65, made it clear that fixing of a cut-off date for granting of benefits is well within the powers of the Government as long as the reasons are not arbitrary and are based on some rational consideration.

6. The Government have introduced pension scheme in the interest of temple employees. It is true that the order was passed only after submitting series of representations by the petitioners and other employees. However, the fact remains that the Government have sanctioned pension to the employees who have retired from 1 January 1996 to 31 December 2005. The Government having found that it would involve considerable expenditure by way of arrears, restricted the benefit with effect from 1 January 2010. The Government have taken a policy decision to pay the benefits prospectively. Since it was a policy decision taken by the Government, there is no question of issuing a direction to give retrospective effect. In matters relating to economic policy the Court should not normally interfere to substitute its views. The petitioners are now getting pension. It is true that they are denied of arrears. However that would not give them a right to claim that payment should be made retrospectively. I am therefore of the view that no relief could be granted to the petitioners.

7. In the upshot, I dismiss the writ petition. Consequently the connected MP is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Tr/

To:

1. The Secretary to Government
Tamil Development Culture and Religious
Endowment Department
Fort St. George
Chennai-600 009.

2. The Commissioner
Hindu Religious cum Charitable Endowment
Nungambakkam
Chennai- 600 034.

1 cc to Ms.R. Gouri ,Advocate, SR.No.16155

1 cc to Spl Government Pleader,Sr.No16316

W.P.No.31178 of 2013

rj(co)
pmk.16.4.2015



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