

HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.2658 of 2003

ORDER:

This writ petition is filed to declare action of respondents in not granting gratuity, encashment of Earned Leave and also commutation of pension on the Notional pay fixed in the Revised pay scales of 1999 and enhancement of gratuity and enhanced percentage of commutation in terms of orders issued by the Government vide G.O.Ms.No.157 and G.O.Ms.No.158, dated 16.09.1999 as illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India.

2. According to petitioner, he was appointed as Dairy Attendant in the year 1971 and after working for 27 years, he took retirement vide orders dated 03.07.1998 w.e.f. 01.08.1998 and after his retirement, Government has issued G.O.(P).No.114 (Finance and Planning (FW:P.C.I) Department) (for short "G.O."), dated 11.08.1999 revising the pay scales of Government employees, according to which, these revised pay scales shall deemed to have come into force from 01.07.1998 with monetary benefit from 01.04.1999. According to para-9 of the G.O., the persons, who have retired between 01.07.1998 and 31.03.1999 are also to be eligible for the Revised pay scales and notional pay fixed to be fixed in the Revised pay scales of 1999 in accordance with the said G.O. for pensionary benefits also. According to petitioner, respondents have not paid the revised gratuity commutation of pension and encashment of Earned Leave based on the Revised pay scales 1999, and therefore, their inaction is illegal and arbitrary.

3. First respondent filed counter disputing the contentions raised by petitioner and according to counter, respondents in view of Revised pay scales in the year 1999, pension of petitioner was fixed at Rs.2,611/- per month, and after deducting commuted portion of

pension of Rs.452/- the net pension is Rs.2,159/-. According to counter the pension is granted w.e.f. 01.08.1998 and 11.09.1998 along with monetary benefits with effect from 01.04.1999 in terms of G.O. (P).No.114, dated 11.08.1999. It is further stated in the counter for the difference of pension, gratuity and encashment leave for the period from 01.07.1998 to 31.03.1999, petitioner is not entitled for monetary benefits as the same is allowed only from 01.04.1999 as per the Government Order, and petitioner is duly paid pension at revised rates from 01.04.1999, therefore the contention of petitioner is not correct and he is not entitled for any monetary benefit for the period from 01.04.1998 to 31.03.1999.

4. Heard both sides.

5. As seen from the G.O. relied on by petitioner, the monetary benefits of Revised pay scales 1999 were given only from 01.04.1999 and the application of pay scales for the persons, who have retired between 01.07.1998 and 31.03.1999 are only to take Notional pay for the purpose of fixation. As seen from the counter, respondents have already revised the pension in terms of G.O.(P).No.114, dated 11.08.1999 and monetary benefit was given from 01.04.1999. As seen from the material papers, petitioner is granted pension of Rs.1,356/- initially in the old scales, but as seen from the counter, his pension is re-fixed at Rs.2,611/- per month in the new scales. It is further clear from the counter, after deducting the commuted portion of pension, his net pension is fixed at Rs.2,159/-. Petitioner has not filed any reply disputing the facts stated in para-5 of the counter. Since G.O. itself contemplates that monetary benefit has to be given from 01.04.1999, monetary claim of petitioner from 01.08.1998 to 31.03.1999 for the difference of gratuity and encashment of Earned Leave is not tenable, therefore action of respondents cannot be termed as illegal or arbitrary.

6. For these reasons, I am of the view that this writ petition is devoid of merits and liable to be dismissed.

7. Accordingly, this Writ Petition is dismissed. No costs.
Miscellaneous Petitions pending in this writ petition, if any, shall stand closed.

S. RAVI KUMAR, J

Date: 09-12-2015.
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