

HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.A. No.1570 of 2007 and M.P.No.2 of 2007

and

W.P.Nos.49349 and 887 of 2006,
11932 and 16108 of 2007
and 14446 of 2008

1.THE STATE OF TAMIL NADU,
REP. BY ITS SECRETARY,
FINANCE (PENSION) DEPARTMENT,
FORT ST. GEORGE, CHENNAI 600 009.

2.DIRECTOR (PENSION)
PENSION DEPARTMENT, ANNA SALAI,
CHENNAI.

... APPELLANTS IN
W.A.NO.1570 OF 2007

1 T.R.BALAGURU
2 K.S.BALASUBRAMANIAN
3 T.ATHMANATHAN
4 P.GOVINDHARAJAN
5 S.KANNAN
6 S.MADHAR HUSSAIN
7 R.GOPALAKRISHNAN
8 K. RAMAIYAN
9 P. THANGARAJAN
10 G.NAVANEETHAM
11 P.S. NATARAJAN
12 S.JEYARAMAN
13 S.JANARTHANAN
14 S.KRISHNAMOORTHY
15 A.SAMBANDAM
16 R.RAMANUJAM
17 M.RADHAKRISHNAN

...PETITIONER IN W.P.NO.49349 OF 2006

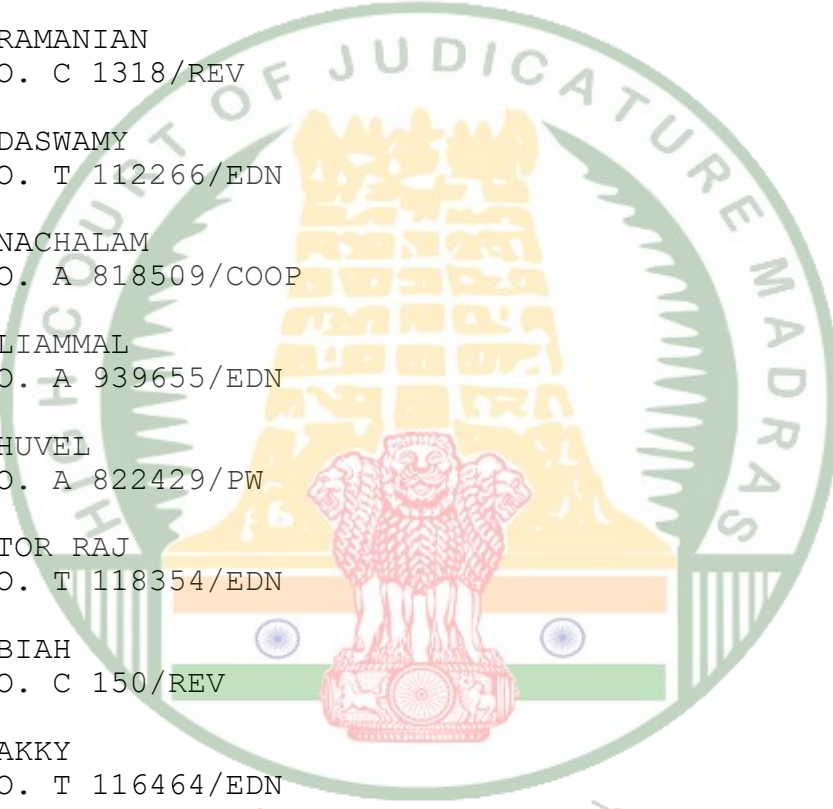
B. MURTHI RAJU

...PETITIONER IN W.P.NO.887 OF 2006

1 S.SHANMUGAVEL
PPO NO. A751345/GA

- 2 V.DAKSHINAMOORTHY
PPO NO. T 110194
- 3 P.GOMATHIAMMA
PPO NO. A 955006/SW
- 4 A.SAVARIMUTHU
PPO NO. A 891402/PW
- 5 V.MUTHIAH
PPO NO. A A 831801/EDN
- 6 E.KATHIRESAN
PPO NO. A A 764934/JUDICIAL
- 7 S.SUBRAMANIAM
PPO NO. C 75208/REV
- 8 M.CHIDAMBARAM
PPO NO. A 939664/EDN
- 9 G.RAJALAKSHMI
PPO NO. A 939553/DN
- 10 S.THAYUMANASUNDARAM
PPO NO. A 761138/RDLA
- 11 S.R.SUBBIAH
PPO NO. A 780137
- 12 A.DEVASAKAYAM
PPO NO. A 891229/PW
- 13 L.PADMANABHAN
PPO NO. A 760879/RDLA
- 14 V.PONNIAH
PPO NO. T 114213/EDN
- 15 S.V.SHANMUGANATHAN
PPO NO. A 760671/RDLA
- 16 M.S.VEMBU
PPO NO. A 761293/RDLA
- 17 S.LAKSHMINARAYANAN
PPO NO. A 948059
- 18 C.GOMATHY
PPO NO. A 876520/VETY

- 19 S.VALLINAYAGAM
PPO NO. A 840361
- 20 P.VYTHILINGAM
PPO NO. A 761215/RDLA
- 21 P.LAKSHMIKANTHAM
PPO NO. A 818615/MISC
- 22 G.PARAMASIVAN
PPO NO. A 810472/COOP
- 23 E.SUBRAMANIAN
PPO NO. C 1318/REV
- 24 C.KANDASWAMY
PPO NO. T 112266/EDN
- 25 P.ARUNACHALAM
PPO NO. A 818509/COOP
- 26 S.VALLIAMMAL
PPO NO. A 939655/EDN
- 27 E.MUTHUVEL
PPO NO. A 822429/PW
- 28 D.VICTOR RAJ
PPO NO. T 118354/EDN
- 29 S.SUBBIAH
PPO NO. C 150/REV
- 30 S.ESSAKKY
PPO NO. T 116464/EDN
- 31 K.DHARMARAJAN
PPO NO. A 820472/PH
- 32 A.SUBBIAH
PPO NO. A 939521/EDN
- 33 K.HARIGOPALAKRISHNAN
PPO NO. T 112388/EDN
- 34 D.RUKMANI SHANTHA
PPO NO. A 844366
- 35 M.MOHAMED HUSSAIN
PPO NO. C 2009/REV



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36 A.S.SUNDARAM
PPO NO.A 761186/RDLA

37 A.RAMASWAMY
PPO NO.A 76119 RDLA

38 K.GANAPATHY
PPO NO.C 2346/REV

39 K.SUNDARARAJAPERUMAL
PPO NO.T 118430

40 E.PARVATHI
PPO NO.A 840455

41 S.GOVINDAN
PPO NO.A 939536/EDN

42 S.NATARAJAN
PPO NO.C 1234/HW

43 P.ESSAKKIMUTHU
PPO NO.A 820267

44 S.PAPANASAM
PPO NO.A 939616/EDN ...PETITIONERS IN W.P.NO.11932 OF 2007

1 SIVA SOMANATHAN
PPO NO.A 757594/GA

2 S.M.JALALUDEEN
PPO NO. A 814675/AGRI

3 BALA SESHAN
PPO NO. A 844368

4 S.ANDI
PPO NO. 891644/PW

5 K.SUBRAMANIAN
PPO NO.A 844295 EDN

6 K.NAMBI
PPO NO.A 970002/EDN

7 M.S.THIRUMALAI
PPO NO.A 891830 PW

8 K.SHANMUGAM
PPO A 882259/EDN

- 9 N.NAMASIVAYAM
PPO NO.T 100471
- 10 ESWARAM JEEVARAJ
PPO NO.A 800537/MEDL
- 11 M.RATHINAM
PPO NO.T 118268 EDN
- 12 S.RAMAKRISHNAN
PPO NO.A 833119/EDN ...PETITIONERS IN W.P.NO.16108 OF 2007
- 1 K.BALU, NO.4/934,
SAFDAR HASMI ST,
THASILDAR NAGAR,
MADURAI 20.
- 2 B.SEENIRAJ, NO.4/495,
BHARATHIDASAN ST,
SADASIVA NAGR,
MADURIA 20.
- 3 S. SHADRACH PAUL, NO.32,
DEPUTY COLLECTOR COLONY,
KK NAGAR, MADURAI.
- 4 N.R.THULASIRAMAN, NO.31,
SRINIVASA PERUMAL KOIL ST,
KAMARAJAR SALAI,
MADURIA.
- 5 S.V.SUBRAMANIAN, NO.3/1394,
DURAISAMY ROAD,
TVS NAGAR,
MADURAI-625 003.
- 6 A.S.VENKATESAN, PLOT NO.177, 6
ASHOK NAGAR I STREET,
PALAMEDU ROAD,
MADURAI 625 018. ...PETITIONER IN W.P.NO.14446/08

-vs-

THENI MAVATTA OYUTHIA KOTTAMAIPPU
(THENI DISTRICT PENSIONERS FEDERATION)
REG.NO.37 OF 2000 THROUGH
ITS PRESIDENT.

.. RESPONDENT/PETITIONER IN
W.A.NO.1570 OF 2007

GOVT.OF TAMILNADU
REP.BY ITS SPECIAL SECRETARY TO GOVT.
FINANCE (PENSION) DEPARTMENT
FORT ST.GEORGE
CHENNAI-9.

...RESPONDENT IN W.P.NO.49349 OF 2006

1 STATE OF TAMILNADU
THROUGH ITS SECRETARY
FINANCE DEPARTMENT
FORT ST. GEORGE CHENNAI-9.

2 THE DIRECTOR (PENSION)
PENSION DEPARTMENT
ANNA SALAI
CHENNAI-6.RESPONDENTS IN W.P.NO.887 OF 2006

1 THE STATE OF TAMILANDU REP.
BY THE SECRETARY TO GOVT.
FINANCE DEPT.
FORT ST GEORGE,
CHENNAI 9 ...RESPONDENT IN W.P.NO.11932/07,
16108/07 AND
W.P.NO.14446/08

Appeal filed under Clause 15 of the Letters Patent against
the order dated 08.02.2006 made in W.P.No.32184 of 2005 on the
file of this Court.

Prayer in W.P.No.32184 of 2005:

Writ Petition filed U/A 226 of the Constitution of India
praying to a Writ of Certiorarified Mandamus Calling for the
records from respondents relating to G.O. Ms. No.764 Finance
(Pension) Department dated 27.9.1995 and G.O.Ms.No. 463 Finance
(Pension) Department dated 31.7.1996 to the effect; (a) that the
Impugned G.O.Ms.No.764 Finance (Pension) Dept. dated 27.09.1995
and GO.Ms.No.463 Finance (Pension) Dept. dated 31.7.1996 may be
quashed with respect to the petitioner in so far as they relate
to classification; b) that the benefits of Impugned GO.Ms.No.764
dated 27.09.1995 and G.O.Ms.No.463 Finance (Pension) Dept.
dated 31.7.1996 may be extended to the members of petitioner
association who had retired or died as the case may be prior to
1.4.1995.

These Petitions are transferred from TamilNadu Administrative Tribunal and re-numbered as Writ Praying to

Prayer in W.P.No.49349 of 2006:

To call for the records of the Respondents letter bearing No.98311/pension/2000-1 dated 20.02.2001 and quash the same and further direct the respondent to grant dearness pay by taking 97% of applicants basic pay while computing death cum retirement gratuity of the applicants who retired prior to 01.04.1995.

prayer in W.P.No.887 of 2006:

To call for the records relating to the G.O.Ms.No.272 Finance (pension) Department dated 15.6.1998 and to direct the 1st respondent to extend the benefit of the above said G.O. to petitioner is concern who had retired on 31.08.1991.

Prayer in W.P.No.11932 of 2007:

Writ Petition filed U/A 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondent to grant Dearness pay by taking 97% of the petitioners basic pay while computing Death cum Retirement Gratuity (DCRG) of the petitioners who retired prior to 1.4.95 and pay the arrears and other consequential pensionary benefits with interest within a stipulated period.

Prayer in W.P.No.16108 of 2007:

Directing the respondent to extend the benefits of G.O.Ms.No.764 Finance (pension) Dept. dt 27.9.1995 to the petitioners retired from 1.7.1993 onwards by granting Dearness Pay by taking 97% of the petitioners basic pay while commuting Death cum Retirement Gratuity (DCRG) and pay the arrears and other consequential service benefits with interest within a stipulated period.

Prayer in W.P.No.14446 of 2008:

To directing the respondent to grant Dearness Pay by taking 97% of the petitioners basic pay while commuting Death cum Retirement Gratuity [DCRG] of the petitioners who retire prior to 1.4.1995 as per amendment made in G.O M.S.NO.764, Finance (P), dated 27.09.95 and pay the arrears and other consequential pensionary benefits with interest within a stipulated period.

For Appellants in WA
& for Respondents in WPs : Mr.T.N.Rajagopalan
Spl.G.P.

For Petitioner in
WP.49349/2006, : Mr.V.Suthakar
16108/2007 & 11932
and 14446 of 2007 : Mr.S.M.Subramanian

For Respondent in WA &
For Petitioner in WP.887/2006: Mr.A.R.Nixon

J U D G M E N T

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

It really cannot be seriously disputed before us that in view of the Judgment of the Hon'ble Supreme Court in State of Punjab vs. Amar Nath Goyal and Others, (2005) 6 SCC 754 as also the judgment in Government of A.P. vs. N.Subbarayudu and Others, (2008) 14 SCC 702 with the latter referring to the earlier judgment, the issue raised in these matters is no more res integra.

2.Learned counsel appearing for the respondent in W.A.No.1570 of 2007 states that before the Hon'ble Supreme Court, the State Government had taken a stand that they would follow the Central Government. However, nothing can preclude the State Government from specifying a different date, even if it be so.

3.As a consequence of the aforesaid, Writ Appeal No.1570 of 2007 has to be allowed and the impugned order of the learned Single Judge dated 08.02.2006 has to be set aside, while the writ petitions have to be dismissed.

4. Accordingly, the writ appeal is allowed and the writ petitions are dismissed. The parties will have to bear their own costs. Consequently, M.P.No.2 of 2007 in W.A.No.1570 of 2007 stands closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. THE SECRETARY,
STATE OF TAMIL NADU,
FINANCE (PENSION) DEPARTMENT,
FORT ST. GEORGE, CHENNAI 600 009.

2. THE DIRECTOR (PENSION)
PENSION DEPARTMENT, ANNA SALAI,
CHENNAI.

3. THE SPECIAL SECRETARY TO GOVERNMENT,
GOVERNMENT OF TAMILNADU,
FINANCE (PENSION) DEPARTMENT
FORT ST. GEORGE
CHENNAI-9.

+1CC to Mr.A.R.Nixon, Advocate sr.44151
+1cc to the Government pleader Sr.44431

W.A. No.1570 of 2007
and

W.P.Nos.49349 and 887 of 2006,
11932 and 16108 of 2007
and 14446 of 2008

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srg 24/08/2016