

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02-06-2016

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Writ Petition Nos. 919 and 920 of 2016

W.P.No. 919 of 2016 :-

- 1.J.Senthi Kumar
- 2.U.A.Sabapathy
- 3.P.Anandasubramanian
- 4.G.Padalingam
- 5.A.Subramanian
- 6.V.L.Narayanamurthy
- 7.P.Palanisamy
- 8.A.S.Adam
- 9.A.Lurthusamy
- 10.P.Ayyanar
- 11.M.Govindan
- 12.M.K.Srinivasan
- 13.K.G.Basheer Ahamed
- 14.A.Jayaseelan
- 15.P.Ramraj
- 16.N.Devarajan
- 17.S.R.Sundaresan
- 18.V.Rajendran
- 19.K.Gururajan
- 20.K.Ramalingam
- 21.G.Adhikesavan
- 22.V.K.Sornam
- 23.R.Mangalam

.. Petitioners

Vs.

The Principal Secretary to Government
Finance Department
Fort St.George
Chennai-9.

..Respondent

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus, to direct the respondent to issue orders applying family pension to the petitioners enabling their spouses to get family pension with all consequential benefits.

W.P.No. 920 of 2016 :-

1.S.Devaki
2.R.J.Vimala
3.A.Shantha
4.P.Nallammal
5.M.Ghandi
6.E.Sukumari Amma
7.V.Krishnaveni
8.K.Chinnammal
9.Paulsamy
10.M.Padmini
11.M.Daivajothi

.. Petitioners

Vs

The Principal Secretary to Government
Finance Department
Fort St.George
Chennai-9.

...Respondent

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus, to direct the respondent to grant family pension to the petitioners with all consequential monetary benefits.

For Petitioners : Mr.S.M.Subramaniam
in both petitions

For Respondent : Mr.S.Gunasekaran
in both petitions Additional Government Pleader

COMMON ORDER

By consent, both Writ Petitions were taken up and disposed of at the admission stage itself.

2. W.P.No.919 of 2016 has been filed to direct the respondent to issue orders applying family pension to the petitioners enabling their spouses to get family pension with all consequential benefits. W.P.No.920 of 2016 has been filed to direct the respondent to grant family pension to the petitioners with all consequential monetary benefits.

3. The petitioners in W.P.No.919 of 2016 and the husbands of the respective petitioners in W.P.No.920 of 2016 were initially appointed in the Department of Commerce and subsequently, they were deputed to work in Tamil Nadu Small Industries Corporation. The Government issued G.O.Ms.No.731 Industries Department, dated 21.05.1974, as per which the Officers and staff can exercise their option for permanent absorption in the Tamil Nadu Small Industries Corporation Limited, without surrendering their

rights to receive pension after commutation of full pension as per the Commutation Rules of Tamil Nadu. Thereafter, orders were issued in G.O.Ms.No.575 Industries Department, dated 04.05.1976, for their permanent absorption in Tamil Nadu Small Industries Corporation Limited. The petitioners in W.P.No.919 of 2016 and the husbands of the respective petitioners in W.P.No.920 of 2016, retired from service and receiving pension under Tamil Nadu Pension Rules, 1978. However, the petitioners were not extended with the benefit of Family Pension. The Government issued G.O.Ms.No.581 Finance (BPE) Department, dated 18.09.2006, as per which, those who are getting pension/ family pension under Employees Provident Fund Act are not eligible for Government Family Pension. The Government of India, Ministry of Personnel, Public Grievances and Pension, Department of Pension and Pensioners' Welfare, by letter dated 30.06.2008 has clarified the position that those who are getting pension/family pension under Employees Provident Fund Pension Scheme 1995 and the Family Pension Scheme 1971 are also eligible for Government Family Pension. Hence, the petitioners have submitted representations, dated 02.01.2016, but, till date, there was no response and hence, the Writ Petitions have been filed.

4. Mr.M.Subramaniam, the learned counsel for the petitioners would submit that the co-employees filed W.P.Nos. 3067 and 3068 of 2010 and this Court, by order dated 08.08.2011, allowed the Writ Petitions and directed the Government to sanction family pension. The Government issued G.O.Ms.No.78 implementing the orders of this Court and extended the benefit of family pension to the co-employees. The petitioners are also similarly placed to that of the co-employees and hence, they are also entitled for the family pension. After some elaborate arguments, the learned counsel submitted that he is restricting his prayer only to the limited extent that the petitioners' representations, dated 02.01.2016, may be considered, especially, in the light of the orders passed by this Court in W.P.Nos.3067 and 3068 of 2010, dated 08.08.2011, wherein, the co-employees of the petitioners/petitioners' husband were extended the benefit of family pension.

5. Mr.S.Gunasekaran, the learned Additional Government Pleader has got no serious objection in directing the respondent to consider the representations of the petitioners and to pass appropriate orders, on merits and in accordance with law.

6. Considering the submissions made on either side, this Court, without going into the merits of the claim made by the petitioner, directs the 1st respondent, to consider the representations of the petitioners, dated 02.01.2016, and to pass appropriate orders, on merits and in accordance with law, after affording sufficient opportunity to the petitioners, as expeditiously as possible. It is made clear that this Court

has not expressed any opinion with regard to the merits of the claim made by the petitioners.

7. These Writ Petitions are disposed of accordingly. No costs.

paa

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

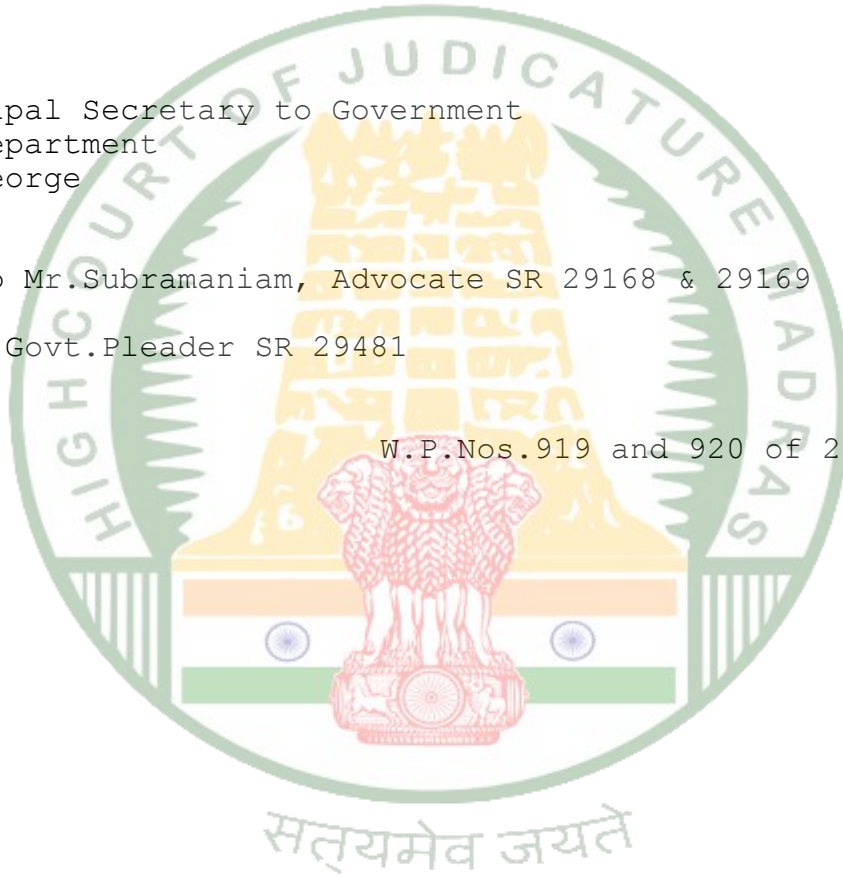
The Principal Secretary to Government
Finance Department
Fort St. George
Chennai-9.

+ 2 ccs to Mr. Subramaniam, Advocate SR 29168 & 29169

+ 1 cc to Govt. Pleader SR 29481

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