



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.07.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD).No.19839 of 2015
and
W.M.P. (MD).No.1 of 2015

S.Ramasamy

... Petitioner

Vs

1.The State of Tamil Nadu,
rep.by the Secretary to Government,
Finance(Pension) Department,
Chennai-600 009.

2.The Accountant General of Tamil Nadu (A&E),
No.351, Anna Salai,
Teynampet, Chennai-18.

3.The Superintendent of Police,
Pudukottai District, Pudukottai.

4.The Treasury Officer,
District Treasury Office,
Pudukottai Post & District.

5.The Sub-treasury Officer,
Sub-treasury Offie,
Ponnamaravathi Post,
Pudukottai District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order passed by the 5th Respondent in O.Mu.No.435-2015-A1 dated 03.09.2015 and quash the same and consequently Direct the Respondents to revise the Petitioners Pension in accordance with G.O.Ms.No.363 Finance (PGC) Department dated 23.08.2013 and to pay the consequential arrears.

For petitioner : Mr.M.Saravanakumar

For R. 1,3 to 5 : Mr.S.Bharahi

Additional Government Pleader



For R 2

: Mr.P.Gunasekaran

ORDER

Mr.S.Ramasamy, a retired Police Constable challenges the impugned order, dated 03.09.2015 passed by the Sub-Treasury Officer, Pudukottai District, and seeks to direct the respondents to revise his pension in accordance with G.O.Ms.No.363, Finance (PGC) Department dated 23.08.2013 .

2. Learned counsel for the petitioner submitted that the petitioner retired from service as Head Constable on 30.06.1988. While so, the Government extended the benefit of conversion of dearness allowance as per dearness pay in exercise of powers under Rule 30 of the Tamil Nadu Pension Rules, 1978 to all employees who retired prior to 01.06.1988 in the following manner:-

- (i) For those retired between 01.12.1966 and 01.10.1970 - dearness allowance as drawn on 01.12.1966 would be treated as dearness pay.
- (ii) For those who retired after 02.10.1970 upto 30.09.1987 - dearness allowance as drawn in the last ten months before retirement would be treated as dearness pay.
- (iii) For those retired between 01.10.1987 to 31.05.1988, the Dearness allowance, additional dearness allowance sanctioned from time to time upto 30.09.1987 would be treated as dearness pay."

2.1. When the matter stood thus, certain Pensioners Association challenged the cut-off date stipulated in the Government Order by filing Writ Petitions with the main relief that dearness allowance should be paid for the purpose of pension calculation in respect of all those persons who retired between 01.06.1988 and 31.12.1995 on the analogy of the Government orders issued in G.O.Ms.No.317, Finance (Pension) Department, dated 11.03.1970, G.O.Ms.No.272, Finance (Pension) Department dated 15.06.1998 and G.O.Ms.No.273, Finance (Pension) Department dated 15.06.1998. The Writ Petition preferred by the Pensioners Association was allowed and such decision was also confirmed by the Hon'ble Supreme Court. Thereafter, the State Government decided to implement the orders of the Hon'ble Supreme Court, by extending the benefit of the orders issued in G.O.Ms.No.272, Finance (Pension) Department, dated 15.06.1998, to those who retired on or after 01.06.1988 upto 31.12.1995 with reference to the pre-revised scales of pay (I.e.scales of pay that existed prior to 01.06.1988). Accordingly, the Government issued G.O.Ms.No.363, Finance (PGC) Department dated 23.08.2014 and issued the necessary guidelines in this regard. Subsequently, the petitioner submitted an Application Form with the second respondent, who in turn, directed the District Treasury Officer, Pudukottai, to revise the pension and to sanction the pensionary benefits as ordered by the Government. However, the District Treasury Officer, Pudukottai, rejected the request of the petitioner stating that the petitioner is not entitled to draw any benefits as per G.O.Ms.No.363, Finance (PGC) Department dated



23.08.2014 stating that the petitioner has already got such benefits way back in the year 2001. Aggrieved over the same, the petitioner is before this Court.

3. *Per contra*, learned Standing Counsel appearing for the second respondent submitted that the petitioner is not eligible to derive any benefit under G.O.Ms.No.449, Finance (Pension) Department, dated 12.10.1999 as well as G.O.Ms.No.363, Finance (PGC) Department dated 23.08.2014. By producing the relevant Government order for perusal of this Court, he prayed for dismissal of this Writ Petition.

4. A perusal of the impugned order, dated 03.09.2015, would go to show that though the second respondent has recommended the case of the petitioner for revising the pension of the petitioner as per G.O.Ms.No.363, Finance (PGC) Department dated 23.08.2014, the fifth respondent has rightly rejected the claim of the petitioner stating that such benefits have already been extended to the petitioner way back in the year 2001 itself. Just because, the second respondent recommended the case of the petitioner, he cannot claim the benefits, when he is legally not entitled to the same. The petitioner cannot deny the fact that the subsequent Government Order, namely, G.O.Ms.No.363, Finance (PGC) Department, dated 23.08.2014, came to be issued only for those person who did not avail the benefits under G.O.Ms.No.449, Finance (Pension) Department, dated 12.10.1999. Admittedly, the petitioner was extended the benefits as per G.O.Ms.No.449, Finance (Pension) Department, dated 12.10.1999 and the said fact is not refuted by the petitioner also. That being so, when the petitioner has already been granted benefits as reflected in the impugned order, his prayer is totally misconceived and the Writ Petition is liable to be dismissed.

5. In the result, this Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writ)

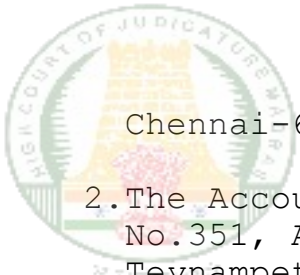
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Sub Assistant Registrar

ssm

To

1.The Secretary to Government,
<https://hcservices.ecourts.gov.in/hcservices/>
The State of Tamil Nadu,
Finance(Pension) Department,



Chennai-600 009.

2.The Accountant General of Tamil Nadu (A&E),
No.351, Anna Salai,
Teynampet, Chennai-18.

3.The Superintendent of Police,
Pudukottai District, Pudukottai.

4.The Treasury Officer,
District Treasury Office,
Pudukottai Post & District.

5.The Sub-treasury Officer,
Sub-treasury Office,
Ponnamaravathi Post,
Pudukottai District.

+1 cc to Mr. M.SaravanaKumar,Advocate, Sr.No: 35037

+1cc to M/S Special Government Pleader, Sr No. 35012

JAM/GSV-PM/14.09.16/4P-8C

W.P (MD) .No.19839 of 2015

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