

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.32486 to 32492 of 2017

K.Akbar Ali Khan .. Petitioner in WP No.32486 of 2017
Philip Arockiya Raj .. Petitioner in WP No.32487 of 2017
K.Vijayakumari .. Petitioner in WP No.32488 of 2017
M.Dhanabalan .. Petitioner in WP No.32489 of 2017
A.Rathinam .. Petitioner in WP No.32490 of 2017
S.Rajeswari .. Petitioner in WP No.32491 of 2017
S.T.Kalaiselvi .. Petitioner in WP No.32492 of 2017

-vs-

1. The State rep.by its Finance Secretary
Finance (CMPC) Department
Fort St.George
Chennai 600 009
.. 1st Respondent in all the Writ Petitions
2. The Commissioner
Department of Social Defence
300, Purasaiwalkam High Road
Kellys
.. 2nd Respondent in W.P.Nos.32486 to 32491 of 2017
Chennai 600 010
3. The Director of Adi Dravidar
and Tribal Welfare Department
Chepauk
Chennai 600 005 .. 2nd Respondent in WP No.32492/2017
4. The District Adi Dravidar
Welfare Officer
Vellore 632 009
Vellore District ... 3rd Respondent in WP No.32492/2017

W.P.No.32486 of 2017 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records in respect of the second respondent's order in A.D.M.No.11927/A2/2017 dated 08.11.2017 to quash the same; consequently direct the respondent to grant a notional increment to the petitioner who retires on

superannuation on the preceding day of annual increment due date on 01.01.2003 in light of final order in W.P.No.12322 of 2017 dated 05.07.2017 accordingly revise the pension and other benefits within a specified period.

W.P.No.32487 of 2017 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records in respect of the second respondent's order in A.D.M.No.11931/A2/2017 dated 08.11.2017 to quash the same; consequently direct the respondent to grant a notional increment to the petitioner who retires on superannuation on the preceding day of annual increment due date on 01.07.2010 in light of final order in W.P.No.12322 of 2017 dated 05.07.2017 accordingly revise the pension and other benefits within a specified period.

W.P.No.32488 of 2017 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records in respect of the second respondent's order in A.D.M.No.11926/A2/2017 dated 08.11.2017 to quash the same; consequently direct the respondent to grant a notional increment to the petitioner who retires on superannuation on the preceding day of annual increment due date on 08.01.2010 in light of final order in W.P.No.12322 of 2017 dated 05.07.2017 accordingly revise the pension and other benefits within a specified period.

W.P.No.32489 of 2017 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records in respect of the second respondent's order in A.D.M.No.11928/A2/2017 dated 08.11.2017 to quash the same; consequently direct the respondent to grant a notional increment to the petitioner who retires on superannuation on the preceding day of annual increment due date on 01.07.1999 in light of final order in W.P.No.12322 of 2017 dated 05.07.2017 accordingly revise the pension and other benefits within a specified period.

W.P.No.32490 of 2017 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records in respect of the second respondent's order in A.D.M.No.11924/A2/2017 dated 08.11.2017 to quash the same; consequently direct the respondent to grant a notional increment to the petitioner who retires on superannuation on the preceding day of annual increment due date on 01.10.1999 in light of final order in W.P.No.12322 of 2017 dated 05.07.2017 accordingly revise the pension and other benefits within a specified period.

W.P.No.32491 of 2017 is filed under Article 226 of the

Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records in respect of the second respondent's order in A.D.M.No.11925/A2/2017 dated 08.11.2017 to quash the same; consequently direct the respondent to grant a notional increment to the petitioner who retires on superannuation on the preceding day of annual increment due date on 01.10.2003 in light of final order in W.P.No.12322 of 2017 dated 05.07.2017 accordingly revise the pension and other benefits within a specified period.

W.P.No.32492 of 2017 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to direct the first respondent to call for the records in para 3 of the G.O.Ms.No.311, Finance (CMPC) Department dated 31.12.2014 and quash the same; consequently direct the respondent to grant a notional increment to the petitioner who retires on superannuation on the preceding day of annual increment due date on 01.07.1995 in light of final order in W.P.No.12322 of 2017 dated 05.07.2017 accordingly revise the pension and other benefits within a specified period.

For Petitioners:: Mr.T.Suresh

For Respondents:: Mr.V.Jayaprakash Narayanan
Special Government Pleader

ORDER

These writ petitions have been filed by the petitioners with a huge delay of 15 years; 7 years; 7 years; 6 years; 18 years; 14 years & 9 years respectively after the date of retirement of the petitioners seeking a direction to the respondents to grant notional increment to them, since they retired on reaching the age of superannuation on the preceding day of the annual increment, in the light of the final order passed in W.P.(MD) No.12322 of 2017 dated 5.7.2017.

2. Learned counsel for the petitioners submitted that the petitioner in W.P.No.32486 of 2017, after serving as Physical Education Teacher, on reaching the age of superannuation, retired from service on 25.12.2002 from Government Juvenile Home, Royapuram, Chennai. Since the annual increment due to him fell on 1st January of each year, he was not paid the annual increment for one year of service from 1.1.2002 till 25.12.2002. Hence, the annual increment which was not paid till date, should be directed to be paid notionally. Similarly, the petitioners in the other writ petitions also retired from service on 30.6.2010, 30.9.2010, 31.12.2011, 30.06.1999, 30.09.2003 & 31.07.2008 respectively and hence they are also entitled to be

paid with the annual increment notionally for the preceding one year of service, he pleaded.

3.1. But this Court is unable to entertain the writ petitions for three reasons. Firstly, even according to the petitioner in W.P.No.32486 of 2017, after having retired from service on reaching the age of superannuation on 25.12.2002, he has not completed one full year of service. If he retired on 31.12.2002, then he may be right in asking for the annual increment, which is not found in his case.

3.2. Secondly, after his retirement that took place on 25.12.2002, he kept quiet for almost 15 long years. Therefore, he should be held guilty of laches. On this ground also, his prayer should fail.

3.3. Thirdly, paragraph-3 of the G.O.Ms.No.311, Finance (CMPC) Department dated 31.12.2014 specifically states that the concession given under Fundamental Rules 26 with one notional increment at the rate as described under rule 6 of the Tamil Nadu Revised Scales of Pay Rules, 2009 is purely for the purpose of pensionary benefits and not for any other purpose and that the said concession shall take prospective effect from the date of issue of the order.

4. In the cases on hand, all the petitioners had retired between 6 and 18 long years ago. At no point of time, the petitioners, referring to the aforementioned Fundamental Rules 26 with one notional increment at the rate as described under Rule 6 of the Tamil Nadu Revised Scales of Pay Rules, 2009, have made any representation whatsoever, as they have given the representation for the first time only on 17.8.2017. Therefore, this Court is not inclined to entertain the writ petitions. Accordingly, the writ petitions are dismissed for laches. Consequently, W.M.P.No.35809 of 2017 is also dismissed. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS III)

//True copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
Finance (CMPC) Department
Fort St.George
Chennai 600 009

2. The Commissioner
Department of Social Defence
300, Purasaiwalkam High Road
Kellys
Chennai 600 010

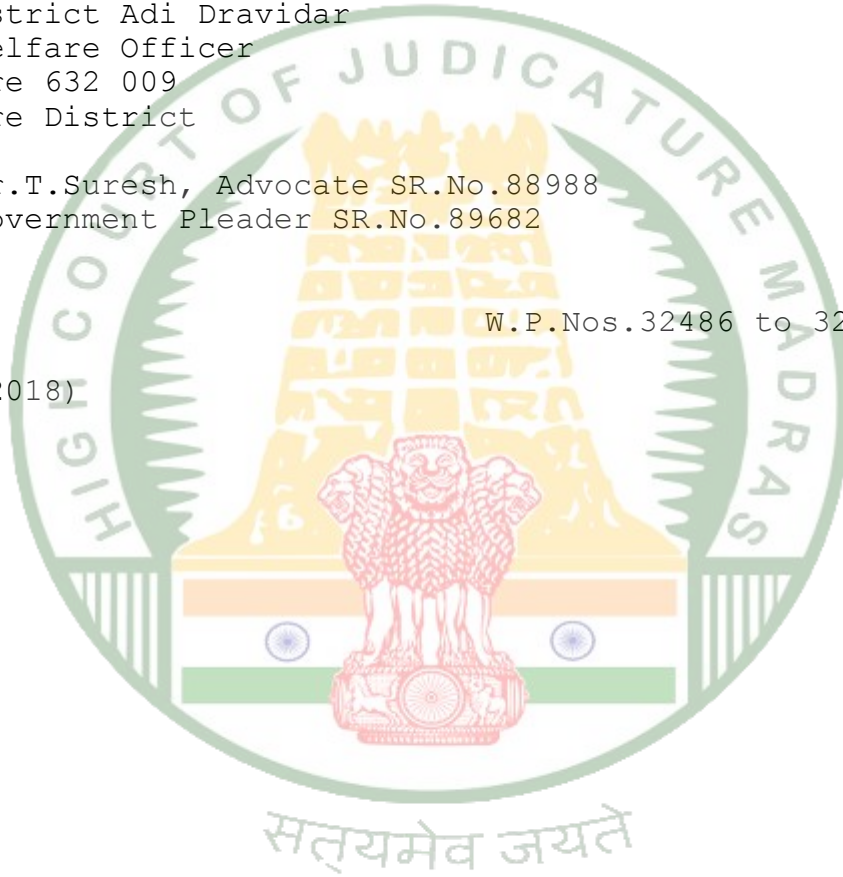
3. The Director of Adi Dravidar
and Tribal Welfare Department
Chepauk
Chennai 600 005

4. The District Adi Dravidar
Welfare Officer
Vellore 632 009
Vellore District

+1cc to Mr.T.Suresh, Advocate SR.No.88988
+1cc to Government Pleader SR.No.89682

W.P.Nos.32486 to 32492 of 2017

GP(CO)
GN(17/01/2018)



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