

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2017

CORAM:

THE HONOURABLE MR. **JUSTICE RAJIV SHAKDHER**
and
THE HONOURABLE MR. **JUSTICE ABDUL QUDDHOSE**

W.P.No.23414 of 2017

A.Godwin

.. Petitioner

Vs.

1. The District Treasury Officer,
Government of Tamilnadu,
Tanjore.
2. The Accountant General,
No.361, Anna Salai, Teynampet,
Tamilnadu, Chennai-600 018.
3. The Commissioner of Treasuries,
No.9, Jenis Street, Anna Nagar West,
West Saidapet, Tamilnadu,
Chennai-600 015.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution, praying to issue a Writ of Mandamus directing the respondents herein to consider petitioner's representation dated 01.08.2017, and pay petitioner's family pension arrears within a stipulated period.

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For Petitioner : Mr.A.P.Suryaprakasam

For Respondents : Mr.P.S.Sivashanmugasundaram
for RR1 and d

JUDGMENT

[Judgment of the Court was made by **RAJIV SHAKDHER, J.**]

1. On the previous date, i.e., 30.08.2017, the following order

had been passed by us :

"1. The petitioner's case is that he is entitled to arrears of pension, which was received by his mother, upon the death of his father Thiru.Albert Devaraj.

1.1.To be noted, according to the petitioner, his father retired as a Sub-Judge on 20.07.1970 and expired on 29.05.1986.

1.2. It is further averred that upon the death of his father, his mother Tmt.Annie Rajam Albert, had been sanctioned family pension and was receiving the same till her death. It is averred that Tmt.Annie Rajam Albert, died on 17.11.2014.

2. The petitioner claims that his mother was entitled to the benefit of G.O.M.S.No.235 Finance (Pay Cell) and G.O.M.S.No.42 Finance (Pension). According to the petitioner, his mother was entitled to the arrears of enhanced pension and therefore, as her sole surviving legal heir, those arrears should be paid to him.

3. Issue notice. Mr.Siva Shanmugasundaram, learned Special Government Pleader, accepts notice on behalf of the respondents. He shall revert to the Court, with respect to what is indicated herein above by us i.e., as to whether or not, the petitioner is entitled to arrears of enhanced family pension.

4. Re-notify the matter on 15.09.2017."

2. Helpfully, Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader, has shown alacrity in the matter, given the critical medical condition of the petitioner, who is a member of the Bar.

3. We are told by Mr.A.P.Suryaprakasam, who represents the petitioner that the liver of the petitioner stands compromised, and that, the Doctors have, practically, given up hope.

3.1. A perusal of the affidavit dated 14.09.2017, filed on behalf of the respondents is indicative of the fact that respondent No.1 has agreed with the assertions made by the petitioner with regard to his claim qua arrears of pension. In other words, the respondent No.1 has indicated in the affidavit filed before us, that the petitioner can claim the arrears of pension, which accrued on account of enhancement in pension.

3.2. To be noted, the pension was earlier drawn by the petitioner's mother Tmt.Annie Rajam Albert, upon the death of her husband. As would be obvious upon perusal of our order dated 30.08.2017, that the father of the petitioner and the husband of Tmt.Annie Rajam Albert, was a Subordinate Judge, who retired from service on 20.07.1970. Thiru. Albert Devaraj, died on 29.05.1986, whereupon his wife and the mother of the petitioner was drawing pension till her death on 17.11.2014.

4. Given these circumstances, the date for drawing the arrears of pension claimed by the petitioner from the Branch of Indian Bank, located at Central Pension Process Centre, Rajaji Salai, Chennai-600 001, will stand advanced to 18.09.2017, in supersession of the date given in paragraph 4 of the aforementioned affidavit filed on behalf of respondent No.1. The date given in paragraph 4 is : 26.09.2017.

4.1. Mr.Sivashanmugasundaram, learned Special Government Pleader, who appears for respondent No.1 and 3, agrees that such a direction would be in order, irrespective of the assertions made in paragraph 4 of the affidavit of the respondents qua the date for drawing the arrears of pension, in view of the stated critical condition of the petitioner.

5. Accordingly, the aforementioned bank shall allow the petitioner to withdraw the arrears on or before 18.09.2017. Since, the petitioner is home-bound, because of his medical condition, upon a certified copy of this order being shown to the Branch Manager of the aforementioned bank, he will depute an Officer to do the needful, so that, all formalities are fulfilled at the residence of the petitioner, which would include paying him the arrears at his residence.

6. The writ petition is, accordingly, disposed of, in the
aforementioned terms. There shall, however, be no order as to
costs.

(R.S.A., J.) (A.Q., J.)
15.09.2017

Note : Issue order copy today

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To

1. The District Treasury Officer,
Government of Tamilnadu,
Tanjore.
2. The Accountant General,
No.361, Anna Salai, Teynampet,
Tamilnadu, Chennai-600 018.
3. The Commissioner of Treasuries,
No.9, Jenis Street, Anna Nagar West,
West Saidapet, Tamilnadu,
Chennai-600 015.

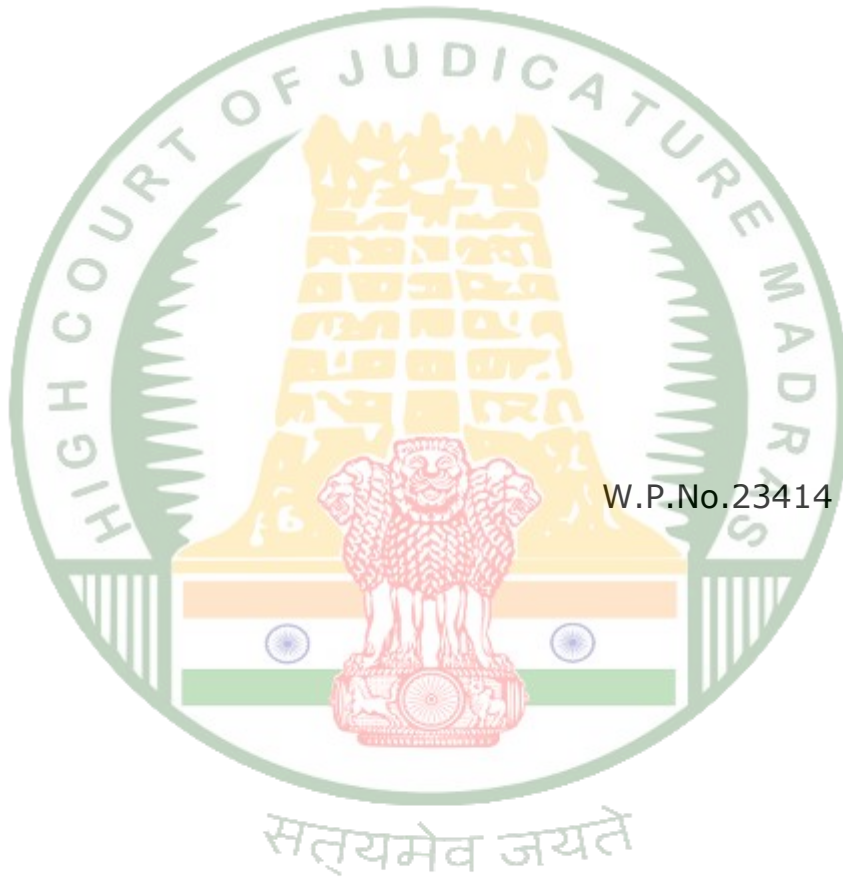
Copy to :

4. The Branch Officer,
Central Pension Process Centre,
Rajaji Salai, Chennai-600 001.

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RAJIV SHAKDHER, J.
and
ABDUL QUDDHOSE, J.

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