IN THE HIGH COURT OF JUDICATURE AT MADRAS

Coram

Dated: 06.02.2017

The Honourable Mr. JUSTICE M.SATHYANARAYANAN

Writ Petition No.2822 of 2017

and W.M.P.No.2758 of 2017

K.Pushpavathi ... Petitioner

-Vs-

1. The Secretary to Government,
   Revenue Department,
   Secretariat,
   Chennai - 600 009.

2. The Commissioner of Revenue Administration,
   Chepauk,
   Chennai - 600 005.

3. The District Collector,
   Collectorate,
   Villupuram District @ Villupuram.

4. The Accountant-General (A&E),
   No.361, Anna Salai,
   Teynampet,
   Chennai - 18. ... Respondents.

Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the first respondent herein to settle all the retirement benefits due to the petitioner's husband with effect from 31.10.2010 by taking into account the period of suspension from 03.03.1983 to 06.08.1993 as duty for all purposes including calculating the pensionary benefits and further direct the respondents to pay interest of 10% on the entire retirement benefits due to be paid for the delayed period from 31.10.2010 till the date of actual payment.

For Petitioner : Mr.Ravi Shanmugam

For Respondents : Mr.P.Chinnadurai, Government Advocate for R1 to R3 Mr.V.Vijaya Shankar for R4.

O R D E R

By consent, the writ petition is taken up for final disposal.

2. Mr.P.Chinnadurai, learned Government Advocate accepts notice on behalf of the respondents 1 to 3 and Mr.V.Vijaya Shankar, learned counsel accepts notice on behalf of the 4th respondent.

3. The husband of the petitioner, namely, K.Kannikeswaran was appointed as Village Administrative Officer on 30.08.1982 and he joined the service on 01.09.1982. He was placed under suspension on 03.03.1983 by the Sub Collector, Thirukoilur, and on contemplation of enquiry into grave charges, the suspension order was revoked by the Revenue Divisional Officer, Thirukoilur on 03.08.1993 and the said official has also passed an order stating that the period of suspension from 03.03.1983 to 06.08.1993 shall be treated as suspension. The grievance expressed by the petitioner is that before passing such an order, the husband of the petitioner was not at all put on notice. The husband of the petitioner has also filed an appeal and the District Revenue Officer, Villupuram District, vide order dated 02.06.1996, has set aside the above said order, however, no fresh orders have been passed after cancelling the order of the Revenue Divisional Officer, Thirukoilur. Subsequently, the husband of the petitioner was visited with disciplinary proceedings under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and he was imposed with the punishment of stoppage of increment for two years with cumulative effect. The husband of the petitioner was faced with criminal prosecution and the same ended in conviction and sentence and consequently, he was removed from service on 27.10.2011 by the Revenue Divisional Officer, Thirukoilur. As against the order of removal from service of the Revenue Divisional Officer, Thirukoilur, the petitioner preferred an appeal on 27.12.2010 before the District Revenue Officer, Villupuram District. On 27.10.2011, the District Revenue Officer, Villupuram District, has set aside the order of removal from service and remanded the matter back for fresh consideration. During the pendency of the same, the husband of the petitioner died on 10.12.2011.

4. Learned counsel for the petitioner has drawn the

attention of the Court to the proceedings of the Sub-Collector, Thirukoilur dated 02.05.2012. As per the said proceedings, the husband of the petitioner is deemed to have retired from service on 31.10.2010 and the period between 28.10.2010 and 31.10.2010 has to be treated as one on duty and as such, he is entitled to get the retirement benefits and therefore, directed the Tahsildar, Ulundurpet, to take appropriate action and a copy of the same was also marked to the District Revenue Officer, Villupuram. It is the further submission of the learned counsel for the petitioner that despite such an order, no further orders have been passed conferring the retirement benefits as well as family pension to her. That apart, the period of suspension undergone by her husband is also not regularised. In this regard, she has also submitted a representation dated 30.09.2016 to the respondents. Though the representation was received and acknowledged, no orders have been passed. Hence, she came forward to file this writ petition.

5. It is also the submission of the learned counsel for the petitioner that in similar facts and circumstances, this Court, vide order dated 27.03.2014 made in W.P.No.4827 of 2011 (D.Muniswamy vs. Secretary to Government Revenue Department, Secretariat, Chennai-9 and two others) has passed a positive order for settlement of the retirement benefits with interest at 10% per annum and therefore prays for similar orders.

6. This Court heard the submission of the learned counsel for the petitioner, Mr.P.Chinnadurai, learned Government Advocate appearing on behalf of the respondents 1 to 3 and Mr.V.Vijaya Shankar, learned counsel appearing on behalf of the 4th respondent.

7. Though the petitioner prays for a larger relief, this Court, in the light of the above facts and circumstances, without going into the merits of the claim projected by the petitioner, directs the respondents 1 to 3 to consider and dispose of the petitioner's representation dated 30.09.2016 on merits and in accordance with law and pass orders within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner as well as the 4th respondent. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

sd/
Assistant Registrar

/true copy/

Sub Assistant Registrar vsi

To

1. The Secretary to Government,
   Revenue Department,
   Secretariat,
   Chennai - 600 009.

2. The Commissioner of Revenue Administration,
   Chepauk,
   Chennai - 600 005.

3. The District Collector,
   Collectorate, Villupuram District @ Villupuram.

4. The Accountant-General (A&E),
   No.361, Anna Salai,
   Teynampet,
   Chennai - 18.

+1cc to Mr.Ravi Shanmugam, Advocate SR.No.7179
+1cc to the Government Pleader SR.No.7814

Writ Petition No.2822 of 2017

KSJ(CO)
GN(20/02/2017)