

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.12.2017

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.29362 of 2017

P.S.Dwarakanath

Petitioner

versus

1. The Pension Pay Officer,
Pension Pay Office,
EVK Sampath Road,
Chennai - 600 006.
2. The Senior Accounts Officer (Legal Cell)
Office of the Accountant General (Accounts & Entitlements)
361, Anna Salai, Teynampet,
Chennai - 600 018.

Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for issuance of a writ of mandamus to direct the respondents to fix the petitioner's pension pay under Central Government Rules / under the Tamil Nadu State Pensioners Rules as applicable to the writ petitioner and accordingly revise the pension benefits of the writ petitioner as fixed and determined as per law and to pay the same with all arrears till date to the writ petitioner immediately without any delay.

For petitioner : M/s.Uma Viswanathan

For respondents: Mr.V.Jayaprakash Narayanan,
Special Government Pleader (for R1)
No appearance (for R2)

ORDER

The petitioner has visited again with the present writ petition seeking another mandamus directing the respondents herein to fix the petitioner's pension pay under Central Government Rules / under the Tamil Nadu State Pensioners Rules as applicable to the writ petitioner and accordingly revise the pension benefits of the writ petitioner as fixed and determined as per law and to pay the same with all arrears till date to the writ petitioner immediately without any delay.

2. The learned counsel for the petitioner has submitted that the petitioner is a senior citizen aged about 91 years and he served as Divisional Accountant under the administrative control of the Accountant General of Tamil Nadu. The petitioner has retired from service on 30.11.1984 from the office of the Executive Engineer, PWD, Marine Division, Chepauk, Chennai. On superannuation, the petitioner was given only State DA, which is less than Central DA at that time. Hence, the petitioner made a request to the Accountant General, Tamilnadu to revise his pension as per the Central Pensioner's Rule. The Accountant General refused to revise the petitioner's pension as per Central Government Rules, simply stating that he had been appointed only just on deputation. Hence, to avail the State Government benefits, the petitioner filed O.A.No.5457 of 2002 before the Tamil Nadu State Administrative Tribunal to grant the pension benefits as per G.O.Ms.No.449 Finance (pension Department) dated 12.10.1999 applicable to the State Government Employees. The Tribunal, vide its order dated 21.10.2002 directed the first respondent / Pension Pay Officer to consider his application with regard to revision of pension in accordance with said G.O.Ms.No.449. However, the Pension Pay Officer simply rejected his representation stating that he had drawn all his payments, DA and other benefits under the rules of Government of India, and he is not eligible for the revision of pension as per G.O.Ms.No.449, as the same is applicable only to the Tamil Nadu State Government Employees.

3. The petitioner again filed O.A.No.2138 of 2003 before the Tamil Nadu State Administrative Tribunal to call for the records relating to the order dated 24.01.2003 and quash the same and direct the Pension Pay Officer to raise the pension treating the DA and ADA drawn at the rates sanctioned by the Constitution of India. The said O.A. got transferred to High Court of Madras and numbered as W.P.No.14259 of 2007. However, during the pendency of the said writ petition W.P.No.14259 of 2007, the learned counsel for the petitioner represented before the Court that the petitioner has been issued a pension revision authorisation letter. On the basis of the statement made by the learned counsel appearing for the petitioner, the said writ petition was dismissed as having become infructuous.

4. Subsequently, the 2nd respondent has again sent a communication, dated nil.05.2017. On a perusal of the said communication, it shows that the petitioner's pension has already been revised, but the office of the Accountant General (Accounts & Entitlements), Tamil Nadu, is unable to take a decision with regard to the authorisation that has been acted upon or not and as to whether the revised pension has been paid to the petitioner, who is the holder of PPO A94413. The petitioner is not able to enjoy the benefits of revised pension benefits. Hence, the petitioner has preferred the present writ

petition.

5. The learned Special Government Pleader appearing for the 1st respondent submitted that the petitioner has not been given the benefit of revised pension. Hence the petitioner has again come to this Court with this writ petition.

6. The learned Special Government Pleader appearing for the 1st respondent submitted that the petitioner was communicated by proceedings dated 24.08.2016 by the Office of the Accountant General (Accounts & Entitlements), Tamil Nadu asking his consent for revision of accepting G.O.Ms.No.449, Finance Department (Pension), dated 12.10.1999. The petitioner has also given his consent in his letter dated 29.08.2016 for revision of pension. Hence, the petitioner would be given the pension on the basis of the said G.O.449. Therefore, accepting the consent letter dated 29.08.2016 given by the petitioner stating that he is willing to go for revision as per the G.O.449, the respondents shall process the pension and pay the same forthwith, preferably within a period of three weeks from the date of receipt of a copy of this order, considering the age of the petitioner that he is about 90 years.

With the above observations, the writ petition is disposed of. No costs.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

pvs

To

1. The Pension Pay Officer,
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EVK Sampath Road,
Chennai - 600 006.
2. The Senior Accounts Officer (Legal Cell)
Office of the Accountant General (Accounts & Entitlements)
361, Anna Salai, Teynampet,
Chennai - 600 018.

+ 1 cc to Mr.J.Viswanathan Advocate, SR.92229
+ 1 cc to The Govt.Pleader, SR.92517

W.P.No.29362 of 2017

nr 25/01/2018