IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.12.2017

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THE HONOURABLE Mr. JUSTICE V.PARTHIBAN

W.P.No.34743 of 2012

M.Sinnarajulu ... Petitioner

Vs.

1. The State of Tamil Nadu
   Rep. By the Secretary to Government
   Agriculture Department
   Fort St. George, Chennai - 600 009.

2. The Commissioner of Agriculture
   Chepauk, Chennai - 600 005.

3. The Joint Director of Agriculture,
   Villupuram. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to sanction and pay the regular annual increment for the past services rendered by the petitioner from 01.07.2006 to 30.06.2007 and consequently revise the pension, pensionary benefits and pay the arrears with interest.

For Petitioner :Mr.R.Prem Narayan

For Respondents :Mr.S.V.Durai Solaimalai
Additional Government Pleader

ORDER

The petitioner has approached this Court seeking the following prayer:

> to issue a writ of mandamus to direct the respondents to sanction and pay the regular annual increment for the past services rendered by the petitioner from 01.07.2006 to 30.06.2007 and consequently revise the pension, pensionary benefits and pay the arrears with interest.

2.The petitioner was employed as Assistant Agricultural Officer in the office of the Assistant Director of Agriculture, Thirukovilur and on attaining the age of superannuation, he

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retired from service on 30.06.2007. According to the petitioner, his regular annual increment was due on 1st of July every year. According to him, he joined in the Government service on 04.01.1974 and promoted to the post of Assistant Agricultural Officer on 01.01.1985. From that date onwards, his annual increment was sanctioned on 1st of July every year till his retirement.

3.Since the petitioner retired on 30.06.2007, his annual increment was due on 01.07.2007 and the same was not sanctioned by the 3rd respondent which resulted in denial of better pensionary benefits to the petitioner.

4.The learned counsel appearing for the petitioner would at the out set submit that the petitioner is entitled to be granted annual increment which was due on 01.07.2007 notionally, since the petitioner had completed last year of service from 01.07.2006 to 30.06.2007. Therefore, there is no justification on the part of the authorities concerned for denying the annual increment which was due to the petitioner for the year 2006-2007.

5.In respect of his contention, the learned counsel for the petitioner would also rely on the order passed by this Court in W.P.No.23119 of 2017 dated 29.08.2017, in and by which, the learned Judge of this Court has allowed similar claims. The reasoning of the Judge has given in paragraph Nos.9 to 11 and the same are reproduced below:

> "9. The very sanction of increment was granted in accordance with the Fundamental Rules. Once the benefit is granted based on the Fundamental Rules, the increment granted to employees retired after 31.12.2014, cannot be denied to employees retired prior to 31.12.2014. This apart, the date of 31.12.2014, is only an acceptance of the grant of increment to the employees in G.O.Ms.No.311. Thus, there is no sanctity or relevance in respect of adopting the date of 31.12.2014, with regard to the eligibility of employees to draw their increment otherwise in accordance with the Fundamental Rules.
>
> 10. The very concept of increment is that on completion of one year of satisfactory service, an employee is eligible to draw the increment. Such being the concept, the date of retirement, as stated in the counter i.e., 31.12.2014, has no nexus or object sought to be achieved. Since such a date is not contemplated in the Government Order, the statement made in the counter,

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cannot be considered by this Court. Accordingly, all the employees, who retired prior or after 31.12.2014, are eligible to draw their notional increment for the purpose of pensionary benefits and the disbursement of monetary benefit shall be given only with effect from 31.12.2014.

11. Thus, the writ petitioner claim for grant of annual increments notionally with effect from the date of retirement and actual monetary benefits with effect from the date of G.O.Ms.No.311, is justifiable. Nowhere in the counter statement, more specifically in paragraph No.8, the Government did not deny the benefit to the State pensioners. Contrarily, it is stated that some officials of the Department were restricting the claim by wrongly interpreting G.O.Ms.No.311, as if it is applicable only to the employees who retired after 31.12.2014, which is incorrect."

6.In the above circumstances, the learned counsel would pray that the writ petition may be allowed and the petitioner may be granted the annual increment which was due on 01.07.2007 notionally with all other consequential benefits.

7.Upon notice, Mr.S.V.Durai Solaimalai, learned Additional Government Pleader has entered appearance on behalf of the respondents and filed counter affidavit. However, the learned Additional Government Pleader for the respondents does not dispute the legal proposition held by the learned Single Judge of this Court in the order passed in W.P.No.23119 of 2017 dated 29.08.2017.

8.In view of the admitted position in favour of the petitioner, this Court has no hesitation in allowing the writ petition. There shall be a direction to the respondents to grant the annual increment which was payable to the petitioner on 01.07.2007 with notional effect and re-calculate the pensionary benefits on such grant of annual increment and pay the petitioner any arrears of pension as a consequence of such re-fixation. The above direction shall be complied with by the respondents within a period of eight weeks from the date of receipt of copy of this order.

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9.With the above direction, the Writ Petition is allowed. No costs.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

Sgl

To

1.The Secretary to Government
The State of Tamil Nadu
Agriculture Department
Fort St. George, Chennai - 600 009.

2.The Commissioner of Agriculture
Chepauk, Chennai - 600 005.

3.The Joint Director of Agriculture,
Villupuram.

+1 CC to Mr.R. Premnarayanan, Advocate sr 88319.
+1 CC to The Additional Govt. Pleader sr 89036.

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