

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.6.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

Writ Appeal No.1230 of 2016

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
Tiruvannamalai. ... Appellants/Respondents

Vs.

N.Ramasamy ... Respondent/Petitioner

Appeal under Clause 15 of the Letters Patent filed against the order dated 10.9.2014 made in W.P.No.24548 of 2014.

W.P.No.24548 of 2014:-

Filed under Article 226 of the Constitution of India, for the issuance of a writ of mandamus directing the respondents to sanction and disburse the regular annual increment for the past services rendered by the petitioner from 01.07.2005 to 30.06.2006 and consequently revise the pension. Pensionary benefits and their by pay the arrears with the interest to the petitioner as per the time framed fixed by this court.

For Appellants : Mr.P.S.Sivashanmugasundaram
Spl. Govt. Pleader

For Respondent : Mr.A.R.Suresh
For Mr.A.Rajendiran

J U D G M E N T

(Delivered by Hluvadi G.Ramesh,J)

The writ appeal is directed against the order dated 10.9.2014 made in W.P.No.24548 of 2014.

2. Heard Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader appearing for the appellants and Mr.A.R.Suresh, learned counsel appearing for the respondent.

3. The respondent retired from service on attaining the age of superannuation on 30.6.2006. After six years of his retirement, the respondent submitted a representation to the first appellant to sanction one increment for the service rendered by him during the preceding year, namely 01.7.2005 to 30.6.2006 and consequently, to revise his pensionary benefits, which was turned down. Assailing the said order, the respondent filed W.P.No.24548 of 2014.

4. The learned single Judge, taking note of the fact that the increment is granted for the services rendered for the previous year and that the third appellant had also recommended to the second appellant for granting increment to the respondent, allowed the writ petition filed by the respondent. Aggrieved by the said order, the Government has come up with the above appeal.

5. The respondent retired on attaining the age of superannuation on 30.6.2006 and the date of increment fell due on 01.7.2006, the day next to the date of superannuation. According to the respondent, since he had worked for the preceding one year, he is entitled to the increment accrued for the services rendered during the preceding year. In this regard, he relied upon the benefit granted to the similarly placed person by name V.P.Somasundaram, by order of this Court dated 22.02.2012 in W.P.No.14401 of 2002.

6. It is to be noted that subsequent to the order impugned in this writ appeal, the Government, by G.O.Ms.No.311, Finance (CMPC) Department, dated 31.12.2014, taking note of the fact that the annual increments of the Government servants are regulated in four quarters, namely 1st January, 1st April, 1st July and 1st October, as per 26(a) of the Fundamental Rules and that there is no provision in the Fundamental Rules to sanction increment for the Government servant who retires on 31st March, 30th June, 30th September and 31st December and whose due date for increment falls on the next day of superannuation, directed that the Government servant whose increment falls due on the day following superannuation, on completion of one full year of

service, be sanctioned one notional increment for the purpose of pensionary benefits.

7. It is, thus, clear that the Government Order cited above is in consonance with the order impugned in this writ appeal.

8. In the decision relied upon by the respondent in W.P.No.14401 of 2002, this Court, after referring to the decision in N.S.Rangaswamy v. Director of High School Education [2011 WLR728], in which the decision of the Apex Court in S.Banjerjee v. Union of India [AIR 1990 SC 285] was followed, held that since the Government servant has rendered service for a period of one year on the date of attaining the age of superannuation and as such, his right to get increment has already accrued, the benefit of payment of annual increment for the completed period of one year of service cannot be denied to him.

9. The learned Special Government Pleader submitted that no appeal was filed against the order of this Court dated 22.02.2012 made in W.P.No.14401 of 2002. Therefore, the said order has attained finality.

10. In the above backdrop, we are of the considered view that the learned single Judge is right in holding that the respondent is entitled to claim the benefit of increment and therefore, the order of the learned single Judge warrants no interference.

11. In view of the above, the writ appeal is dismissed, upholding the order of the learned single Judge. However, there shall be no order as to costs. Consequently, CMP Nos.15861 and 15862 of 2016 are closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

kpl

To

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

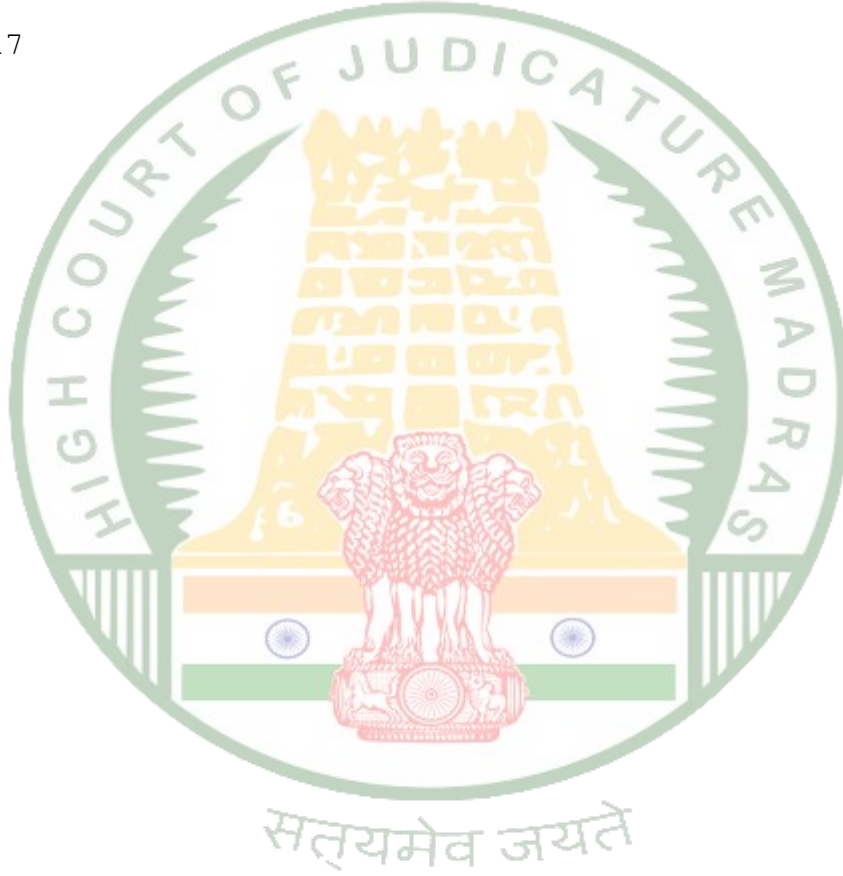
2. The Commissioner of Agriculture
Chepauk
Chennai 600 005.

3. The Joint Director of Agriculture
Tiruvannamalai.

+1cc to Mr.A.Rajendiran, Advocate, S.R.No.41067

W.A.No.1230 of 2016

MSM(CO)
CS/18/07/17



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