

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

W.A.Nos.548 and 549 of 2016

Tamil Nadu Agricultural University
Pensioners Association
rep. by its President
TNAU Campus
Coimbatore-641 003

... Appellant in
both the appeals/ Petitioner

vs.

1.The State of Tamil Nadu rep. by
the Secretary to Government,
Finance (Pension) Department,
Secretariat, Chennai - 600 009.

2.The State of Tamil Nadu,
rep. by Secretary to Government
Agriculture (AT) Department,
Secretariat, Chennai - 600 009.

3.The Tamil Nadu Agricultural University,
rep. by its Registrar,
Coimbatore - 641 003. ... Respondents in/ Petitioners
both the appeals

Writ Appeals filed under Clause 15 of the Letters Patent
against the orders dated 25.04.2014 in W.P.Nos.41083 of 2002 and
28571 of 2003 respectively, passed by the learned Single Judge
of this Court.

Petition filed under Article 226 of the constitution of
India to issue a Writ of Certiorarified Mandamus calling for
the proceedings of the first respondent made in G.O.Ms.No. 6
Finance (pension) dept. dated 6.1.2000 and quash the same and
consequently direct the respondents to extend the benefit of
G.O.Ms.No. 272 Finance datd 15.6.1998 to the members of
petitioner association of Tamil Nadu Agricultural University
who retired during the period from 1.4.1979 to 30.6.1988

W.P.No.28571/03 Writ petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 3 to implement the G.O.Ms.No.272 Finance (Pension) Department dated 15.6.1998 and G.O.Ms.No.449 dated 12.10.1999 to the Members of the Petitioner's Association within the time to be stipulated by this Court.

For Appellant : Mr.M.Venkatachalapathy, SC for
Mr.M.Sriram
For R1 & R2 : Mr.R.Prathapkumar, AGP
For R3 : Mr.Abdul Saleem

COMMON JUDGMENT

(Order of the Court was made by RMT. TEEKAA RAMAN,J.)

The unsuccessful writ petitioner - Pensioners' Association has filed the present writ appeals challenging the orders dated 25.04.2014 passed by the learned Single Judge in W.P.Nos.41083 of 2002 and 28571 of 2003 filed to clarify G.O.Ms.No.6 Finance (Pension) Department, dated 06.01.2000 and direct the respondents to extend the benefit of G.O.Ms.No.272 Finance (Pension) Department, dated 15.06.1998 to the members of the Pensioners' Association, who retired during the period from 01.04.1979 to 30.06.1988.

2.Mr.M.Venkatachalapathy, learned Senior Counsel representing Mr.M.Sriram, learned counsel for the Appellant Association in both the cases, submitted that in the writ petitions in W.P.Nos.41083 of 2002 and 28571 of 2003, the arguments have been made and the orders were reserved on 17.12.2012 by the learned Single Judge. After reserving the orders, the Hon'ble Supreme Court in the decision reported in (2013) 2 SCC 772 (Kallakurichi Taluk Retired Officials Association, Tamil Nadu and others v. State of Tamil Nadu) has held in para 32, as under:

"First and foremost, it needs to be understood that the quantum of discrimination, is irrelevant to a challenge based on a plea of arbitrariness under Article 14 of the Constitution of India. Article 14 of the Constitution of India ensures to all equality before the law and equal protection of the laws. The question is of arbitrariness and discrimination. These rights flow to an individual under Articles 14 and 16 of the Constitution of India. The extent of benefit or loss in such a determination is irrelevant and inconsequential. The extent to which a benefit or loss actually affects the person concerned, cannot ever be a valid justification for

a court in either granting or denying the claim raised on these counts. The rejection of the claim of the appellants by the High Court, merely on account of the belief that the carry-home pension for employees who would retire after 1.6.1988, would be trivially lower than those retiring prior thereto, amounts to bagging the issue pressed before the High Court. The solitary instance referred to above, which is not a matter of dispute even at the hands of the first respondent, clearly demonstrates, that in a given situation, an employee retiring on or after 1.6.1988 could suffer a substantial loss, in comparison to an employee retiring before 1.6.1988. We are, therefore, satisfied, that the High Court clearly erred while determining the issue projected before it."

Consequently, the Apex Court allowed the Civil Appeals and set aside the order passed by the High Court and thereby, the impugned Government Order dated 9.8.1989 to the extent that it extends to employees, who retire on or after 1.6.1988, a lower component of "dearness pay", as against those who had retired prior to 1.6.1988, has been quashed, being violative of Articles 14 and 16 of the Constitution of India.

3.Mr.R.Prathap Kumar, learned Additional Government Pleader appearing for the respondents 1 and 2 submitted that following the aforesaid decision of the Hon'ble Supreme Court, G.O.No.363 Finance (PGC) Department, dated 23.08.2013 has been issued, extending the benefit of G.O.Ms.No.272 Finance (Pension) Department, dated 15.06.1998 to those, who retired between 1.6.1988 and 31.12.1995.

4.After hearing both sides and upon perusal of the decision of the Hon'ble Supreme Court and the order of the Government in G.O.No.363 Finance (PGC) Department, dated 23.08.2013, we are of the considered view that in respect of the pensioners retired between **1.4.1979 and 30.06.1998,*** belonging to the appellant Association, the same benefit as envisaged by the Hon'ble Supreme Court in the decision cited supra, is applicable on the factual grounds.

5.In such view of the matter, these writ appeals are allowed in the light of the aforesaid decision of the Hon'ble Supreme Court and the order passed by the Government in G.O.No.363 Finance (PGC) Department, dated 23.08.2013. Consequently, the orders of the learned Single Judge, which are impugned herein, stand set aside by extending the benefit of G.O.Ms.No.272 Finance (Pension) Department, dated 15.06.1998 to the members of

the appellant Pensioners' Association, who retired between **01.4.1979 and 30.06.1998,***. The respondents are directed to work out the calculation accordingly. No costs.

Sd/-
Assistant Registrar(CS-VI)
dt. 15.11.2017

Corrected as per order dated 25.07.2018
made in CMP.11928/18 in W.A.Nos.548/16

Sd/-
Assistant Registrar(CS-VI)
dt.16.08.2018

/true copy/

Sub Assistant Registrar

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To

1.The Secretary to Government,
Finance (Pension) Department,
Secretariat, Chennai - 600 009.

2.The Secretary to Government
Agriculture (AT) Department,
Secretariat, Chennai - 600 009. To Substituted in the
place or order despatched
on 6.12.2017

3.The Registrar,
Tamil Nadu Agricultural University,
Coimbatore - 641 003.

2 ccs to MR.Sriram, Advocate, **Sr.50263**
1 cc to Government Pleader, **Sr. 50365**
1 cc to MR.Abdul Saleem, Advocate, sr. 72813

W.A.Nos.548 and 549 of 2016

kk (CO)
kk 21/11
Eu 16.08.2018

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