BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :17.07.2017

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.(MD).No.19782 of 2015

S.Shanmuga sundaram ...Petitioner

Vs.

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

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

3.The Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai - 600 009.

4.The District Collector,
Madurai District,
Madurai. ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent i.e., the Secretary to Government, Finance (CMPC) Department, Chennai relating to G.O. Ms.No.311 Finance (CMPC) Department dated 31.12.2014 and the records of the fourth respondent i.e., the District Collector, Madurai relating to proceedings Na.Ka.No.31908/2015/G1 dated 07.10.2015 and quash the same and consequently direct the respondents to sanction increment to the petitioner which fell due on 01.07.2012 and send revised pension proposals within a specified time frame that may be fixed by this Court.

For Petitioner :Mr.S.Visvalingam

For Respondents :Mr.K.Guru,
Additional Government Pleader.

O R D E R

This writ petition has been filed seeking for a writ of Certiorarified Mandamus calling for the records of the first respondent i.e., the Secretary to Government, Finance (CMPC) Department, Chennai relating to G.O. Ms.No.311 Finance (CMPC) Department dated 31.12.2014 and the records of the fourth respondent i.e., the District Collector, Madurai relating to proceedings Na.Ka.No.31908/2015/G1 dated 07.10.2015 to quash the same and to direct the respondents to sanction increment to the petitioner which fell due on 01.07.2012 and send revised pension proposals within a specified time frame that may be fixed by this Court.

2.The learned Counsel for the petitioner would submit that the petitioner, after serving as Village Administrative Officer, Narasingam-IV, Madurai East Taluk, Madurai District, was allowed to retire peacefully on 30.06.2012 on attaining the age of superannuation. His last increment fell due on 01.07.2012. Therefore as per the provisions contained in F.R 26(a) Appendix (ix), the increment of a Government Servant which falls due in a quarter may be sanctioned on the first day of that quarter even though the said employee retires from service prior to the actual date of accrual of increment.

3. In view thereof, the petitioner made representation on 18.04.2015 requesting them to allow the same as per F.R 26(a) Appendix (ix). But the respondents have rejected the request of the petitioner, taking a stand that as per G.O.Ms.No.311, Finance (CMPC) Department, dated 31.12.2014, the concession of the notional increment shall take prospective effect from the date of issue of the Government Order and therefore, the request of the petitioner cannot be considered.

4. Assailing the reasonings given therein, the learned Counsel for the petitioner would further submit that it is an admitted case that the petitioner has put in 12 clear months of service from 01.07.2011 till 30.06.2012. When the petitioner has put in 12 clear months of service, he should be paid with the increment for the said 12 months of service rendered. The date of completion in the present case is 30.06.2012, but the petitioner, on reaching the age of superannuation, retired from service on 30.06.2012. He was allowed to retire by the Competent Authority. Therefore the right to enjoy the increment having been acquired by the petitioner legally is entitled to the increment, which is due on 01.07.2012. Therefore, on the ground that the petitioner retired on 30.06.2012 and not working on 01.07.2012, the accrued rights of the petitioner cannot be denied, it is pleaded.

5. Heard the parties.

6. Let me refer F.R.26(a) Appendix (ix) which is extracted as follows:

> " The increment of a Government Servant which falls due in a quarter may be sanctioned on the first day of that quarter even though he retires from service prior to the actual date accrual of increments."

7. A mere perusal of the above shows that the increment of the Government Servant falling due in a quarter to be sanctioned on the first day of that quarter even though he retires from service prior to the actual date of accrual of increments. Now the petitioner retired on 30.06.2012.

8. In a similar circumstances, referring to the same F.R.26 (a), this Court has passed an order in W.P.(MD)No.22589 of 2010 dated 03.08.2011 giving direction to the respondents therein to pay the last increment. The said order was also affirmed on Appeal in W.A.No.2095 of 2011 dated 10.11.2011. Again on further Appeal to the Honourable Supreme Court in S.L.P.C.C.No.10842 of 2013, dated 04.07.2013, the Judgment passed by the Honourable Division Bench of this Court in W.A.No.2095 of 2011 has been affirmed, therefore the respondents cannot hesitate to pay the last increment fell due on 01.01.2011 on the basis of F.R 26(a) Appendix (ix) as cited above.

9. Admittedly the petitioner after serving as Village Administrative Officer, Narasingam-IV, Madurai East Taluk, Madurai District, retired from service, on reaching the age of superannuation on 30.06.2012. When he was not paid with the increment for having served from 01.07.2011 till 30.06.2012, as per F.R 26(a) Appendix (ix), which is extracted as above, the increment for the said year deserves to be sanctioned. A perusal of F.R26(a) Appendix (ix) shows that the increment of a Government Servant which fell due in a quarter to be sanctioned on the first day of that quarter even though he retires from service. Therefore when F.R 26(a) Appendix (ix) candidly makes it clear that the increment of the Government Servant falls due in a quarter to be sanctioned on the first day of the quarter even though retires from the service, in the instant case, the petitioner, having served continuously from 01.07.2011 till 30.06.2012, on attaining the age of superannuation on 30.06.2012, retired from service, therefore he will not be able to work on 01.07.2012. Hence, the ground taken by the respondents that since he is not in service on 01.07.2012, not entitled to the increment, is wholly running contrary to F.R 26(a) Appendix (ix).

10. In the similar circumstances, I have also held in W.P.(MD) No.10630 of 2016, dated 15.07.2016 that the annual increment for the service rendered from 01.04.2013 to 31.03.2014 which fell due from 01.04.2014 should be granted.

11. In view of the above, the Writ Petition is allowed and the impugned order is set aside. No costs. It is needless to mention that the first respondent is hereby directed to sanction the last increment which fell due on 01.07.2012, within a period of six weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

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

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

3.The Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai - 600 009.

4.The District Collector,
Madurai District,
Madurai.

+1cc to Special Government Pleader, SR.No. 66135
+1cc to M/S.S.Visvalingam, Advocate SR.No. 65805

W.P.(MD).No.19782 of 2015
17.07.2017.

NS/SSS
JM/RSK/SAR 2/01.11.2017/4P/7C