



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.05.2017

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CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.(MD)No.9853 of 2017

T.Thangaraj

...Petitioner

Vs.

1.The Principal Secretary to Government,
State of Tamil Nadu,
Finance (Pay Cell) Department,
Secretariat, Chennai.

2.The Secretary to Government,
Home Department,
Secretariat, Chennai.

3.The Accountant General (A & E),
State of Tamil Nadu,
Anna Salai, Teynampet,
Chennai.

4.The Superintendent of Police,
'Q' Branch C.I.D.,
Chennai - 4.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents to consider the petitioner's representations dated 06.08.2013 and 26.08.2014 and to sanction the revised pension to the petitioner by including the special pay of Rs.1,786/- as per G.O.Ms.No.667, Home (Pol.8) Department, dated 14.08.2009 and consequently directing the 3rd Respondent to disburse the deducted special pay in the petitioner's retirement benefits viz. Commutation, DCRG and arrears of pension from the date of his retirement forthwith.

For Petitioner : Mr.K.Mahendran

For Respondents : Mrs.S.Bharathi (for R1, R2 and R4)

Government Advocate

Mr.P.Gunasekaran (for R3)

O R D E R

The petitioner has been filed the writ petition for the issuance of Writ of Mandamus, directing the Respondents to consider the petitioner's representations dated 06.08.2013 and 26.08.2014 and to sanction the revised pension to the petitioner by including the special pay of Rs.1,786/- as per G.O.Ms.No.667, Home (Pol.8) Department, dated 14.08.2009 and consequently directing the 3rd Respondent to disburse the deducted special pay in the petitioner's retirement benefits viz. Commutation, DCRG and arrears of pension from the date of his retirement forthwith.

2.The case of the petitioner is that he has joined in the respondent Police Department on 10.01.1975 as Grade-II Police Constable, after getting promotion on various cadre, he was finally promoted as Sub-Inspector of Police. While the petitioner was working as Sub-Inspector of Police, in 'Q' Branch, C.I.D. at Thoothukudi District, the petitioner was retired from service voluntarily under the Voluntary Retirement Scheme on 31.10.2011.

3.It is the further case of the petitioner is that as per the Government Order in G.O.Ms.No.667, Home (Pol.8) Department, dated 14.08.2009 has sanctioned special pay, which is 10% of Basic Pay to the executive staff from the cadre of Additional Superintendent of Police to Police Constables, who are working at C.B.C.I.D and S.B.C.I.D. Based on the above said G.O., the special pay of Rs.1306/- which is 10% of his basic pay of Rs.16,900/- was sanctioned to the petitioner, since he was working as Sub-Inspector of Police, in 'Q' Branch C.I.D., Thoothukudi.

4.He has also stated that after his retirement, the 4th respondent by his proceedings C3/Q/PEN/008271/2011 dated 29.11.2011 has sent the proposal to the 3rd respondent for getting his retirement benefits such as Family Pension, DCRG and other benefits by calculating the petitioner last drawn pay. In fact, in the proposal, it was mentioned that the petitioner was eligible for drawing C.I.D. Special Pay as per G.O.Ms.No.667, Home (Pol.8) Department, dated 14.08.2009 and the same was already been recorded in the petitioner's service book. Therefore, the petitioner has decided to draw his pension at Sub-Treasury Office, Sankarankovil, Tirunelveli District. In this regard, the 4th respondent requested the 3rd respondent to issue necessary admissibility report and authorization to the petitioner. Apart from that, a statement of the petitioner's qualifying service was also enclosed along with his proceedings and further states that in the qualification statement, the following particulars have been given below:



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"Date of Birth : 01.07.1954
 Date of Enlistment : 10.01.1975 FN
 Date of Retirement : 31.10.2011 AN
 Qualifying Service : Y M D
 36 - 9 - 21
 Less non Qualifying service: Nil
 Net qualifying : 36 - 9 - 21
 Service : 37 Years 74 half Years Ltd to 66 h.y

The 4th Respondent has proposed pension as follows:

Pay GP SP DA 58%
 Last Pay Drawn : 13060 + 4800 + 50 + 10359 = Rs.28,269/-
 Pension : 50% of Pay last drawn:
 17910X50/100 = Rs.8955/-

The 4th Respondent has calculated the petitioner's DCRG as follows:

Pay DA x 66/4
 Last Pay Drawn : 17910 + 10359 x 66/4 = Rs.4,66,439/-
 CVP : 1/3 of pension x 12 x 8.371
 2985 x 12 x 8.371 = Rs.2,99,849/-

Reduced Pension:

Pension = 8955

Less CVP = 2985

5970

Accordingly the 4th Respondent has calculated the petitioner's Family Pension as follows:

Pay GP SP DA 58%
 Last Pay Drawn : 13060 + 4800 + 50 + 10359 = Rs.28,269/-
 (50% of Pay last drawn) ENFP : 17910 x 50/100 = Rs. 8,955/-
 (30% of Pay last drawn) NFP : 17910 x 30% = Rs. 5,373/-
 Enhanced Family Pension is Rs.8,955/-

Normal Family Pension is Rs.5,373/-"

5. The petitioner also further states that when the 4th respondent without taken into consideration of the

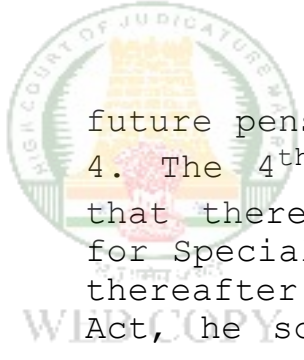
G.O.Ms.No.667/Home (Pol.8) dated 14.08.2009 calculating the petitioner's pension benefits as per the old CID Special Pay of Rs.50/- pertaining to the Sub-Inspector of Police. As per the G.O.Ms.No.667/Home (Pol.8), the petitioner has eligible to get 10% of the pay last drawn as Special Pay for C.I.D. and working sheet of corrected pension calculation is as follows:

"Pay Last Drawn	..	..	BP	GP	SP	Total
			13060	4800	1786	19646
DA @ 58% for Rs.19646	..	..	..	..	..	11394
Total	..	..	..	..	..	31040
Basic Pension @ 50% PLD : 19646/2					..	9823
DCRG	..		31040X66/4		..	5,12,160
CVP	..	..	1/3 of pension x 12 x 8.371			
			= 9823/3 x 12 x 8.371			
			= 3274.33 x 12 x 8.371		=	3,28,913
Reduced Pension	..	9823 - 3274			=	6549
Normal Family Pension = 30% of 19646 (PLD)					=	5893"

Therefore, the 4th respondent has correctly sent the petitioner's pensionary proposal to the 3rd respondent as as per the calculation, the petitioner's commutation amount would come to Rs.2,99,849/- and DCRG comes to Rs.4,66,439/-.

6.It is also the case of the petitioner that the 4th respondent had sent the petitioner's pension proposals to the 3rd respondent by calculating correctly, but the 3rd respondent has sanctioned commuted value of pension and DCRG only at Rs.2,85,408/- and Rs.3,54,140/- respectively instead of Rs.2,99,849/- and Rs.4,66,439/- and failing to take into account of 10% Special Pay cum to Rs.1,786/- and the same was communicated to the petitioner through his letter No.C3/Q/PEN/008271/2011 dated 29.11.2011. Therefore, the petitioner has sent a representation to the 4th respondent on 06.08.2013 to include the Special Pay of Rs.1,786/- while calculating the petitioner's retirement benefits in view of the G.O.Ms.No.667, Home (Pol.8) Department, dated 14.08.2009 and also requested him to pay the deducted amount from the petitioner's DCRG and commuted value of pension and also revised the pension after including the Special Pay.

7.The petitioner also sent a representation to the 1st respondent to pass suitable orders on his earlier grievance representation and requested the 1st respondent to disburse the petitioner's Special Pay which was deducted from the petitioner's pensionary benefits viz. Commutation, DCRG, arrears of Family Pension from the date of retirement to till date and also in the



future pension. But, there was no reply from the respondents 1 and 4. The 4th respondent herein also sent a memo dated 22.10.2013 that there is no clarification received from the 3rd respondent for Special Pay, hence the petitioner sent reminder on 26.08.2014, thereafter he seek information under the Right to Information Act, he sought for the reply of the question and the reply was given by the 3rd respondent in his proceedings Legal Cell / RTI-522/2015-16/ dated 16.07.2015 sent a communication to the petitioner stating that his representation to forwarded to the group consent for necessary further action, but till now he has not received any communication from the respondents.

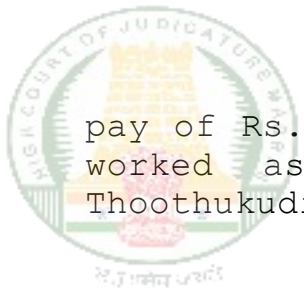
8.It is further case of the petitioner that the petitioner run to pillar to post for getting his Special Pay which was sanctioned by the Government vide G.O.Ms.No.667, Home (Pol.8) Department, dated 14.08.2009, but till date no fruitful reply was received from the respondents. Therefore, the writ petitioner has approached this Court by filing the above writ petition for the above prayer.

9.When the matter is taken up today at the admission stage itself, on behalf of the respondents Mr.Gunasekaran, learned counsel appearing for the 3rd respondent and Mrs.Bharathi, learned Government Advocate appearing for the respondents 1, 2 and 4 were taken notice and on consent of both the parties, the matter was taken up for final hearing.

10.I heard Mr.K.Mahendran, learned counsel appearing for the petitioner, Mrs.S.Bharathi, learned Government Advocate appearing for the respondents 1, 2 and 4 and Mr.P.Gunasekaran, learned counsel appearing for the 3rd respondent and perused the entire records.

11.It is the case of the petitioner is that he was joined in the Police service on 10.01.1975 as Grade-II Police Constable and after getting various promotions. Finally, he was promoted as Sub-Inspector of Police and worked in 'Q' Branch, C.I.D. at Thoothukudi District and retired from service voluntarily on 31.10.2011 as per the Voluntary Retirement Scheme.

12.As per the Government Order in G.O.Ms.No.667, Home (Pol.8) Department, dated 14.08.2009 has sanctioned the Special Pay, which is 10% of Basic Pay to the executive staff from the cadre of Additional Superintendent of Police to Police Constables, who are working at C.B.C.I.D. and S.B.C.I.D. Based on the above said G.O., Special Pay of Rs.1306/- which is 10% of the petitioner's basic



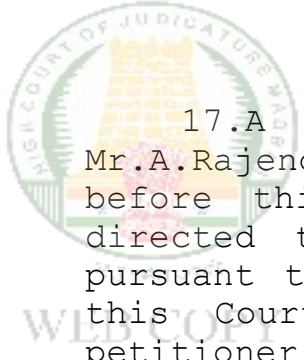
pay of Rs.16,900/- was sanctioned to the petitioner, since he was worked as Sub-Inspector of Police, in 'Q' Branch C.I.D., Thoothukudi.

13. When the 4th respondent by his proceedings C3/Q/PEN/008271/2011 dated 29.11.2011 has sent the proposal to the 3rd respondent for getting the retirement benefits of the writ petitioner such as Family Pension, DCRG and others benefits by calculating the petitioner's last drawn pay, and the proposal it was mentioned that the petitioner eligible for drawing C.I.D. Special Pay as per G.O.Ms.No.667, Home (Pol.8) Department, dated 14.08.2009, but there was no reply.

14. Without considering the statement given by the petitioner, the proposal sent by the 4th respondent without taking into consideration of the G.O.Ms.No.667/Home (Pol.8) dated 14.08.2009, the 3rd respondent has sanctioned the commuted value of pension and DCRG only at Rs.2,85,408/- and Rs.3,54,140/- respectively instead of Rs.2,99,849/- and Rs.4,66,439/- and failing to take into account of 10% Special Pay cum to Rs.1,786/- and the same was communicated to the 4th respondent by his letter No.C3/Q/PEN/008271/2011 dated 29.11.2011.

15. In this regard, the petitioner also sent a representations to the respondents 1 and 4 on 06.08.2013 and 26.08.2014, but no steps were taken. Therefore, the petitioner filed this writ petition for the issuance of Writ of Mandamus, directing the respondents to consider the petitioner's representations dated 06.08.2013 and 26.08.2014 and to sanction the revised pension to the petitioner by including the special pay of Rs.1,786/- as per G.O.Ms.No.667, Home (Pol.8) Department, dated 14.08.2009 and consequently directing the 3rd Respondent to disburse the deducted special pay in the petitioner's retirement benefits viz. Commutation, DCRG and arrears of pension from the date of his retirement forthwith.

16. Per contra, the learned counsel appearing for the 3rd respondent and the learned Government Advocate appearing for the respondents 1, 2 and 4 that this petitioner is not entitled for the benefit in this writ petition. Since the 3rd respondent has correctly calculated the said amount and therefore, this petitioner is not entitled the prayer sought for in this writ petition, therefore, the respondents prayed for dismissal of the writ petition. Though the petitioner has sent two representations on 06.08.2013 and 26.08.2014, but no action was taken by the respondents.



17.A similar in nature of the writ petition, one Mr.A.Rajendran has filed Writ Petition in WP(MD)No.6567 of 2013 before this Court and this Court by order dated 19.04.2013, directed the authority to consider the petitioner's case and pursuant to the order, he has also got the benefit. Therefore, this Court consider the case of the petitioner, since the petitioner is entitled for the benefits as he prayed for.

18.In the result:

(a) the writ petition is disposed of with a direction to the 3rd respondent to sanction 10% of the Special Pay to the petitioner as per G.O.Ms.No.667, Home (Pol.8) Department, dated 14.08.2009;

(b) the said exercise shall be done within a period of three weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar.

To

1.The Principal Secretary to Government, State of Tamil Nadu, Finance (Pay Cell) Department, Secretariat, Chennai.

2.The Secretary to Government, Home Department, Secretariat, Chennai.

3.The Accountant General (A & E), State of Tamil Nadu, Anna Salai, Teynampet, Chennai.

4.The Superintendent of Police, 'Q' Branch C.I.D., Chennai - 4.
+1CC to the Special Government Pleader SR.No. 57955

W.P. (MD) No. 9853 of 2017

25.05.2017

vsa/skn

AM/SV MMS/SAR 1/06.10.2017/7P/6C