

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.A. No. 480 of 2013

M. Chinnappan

... Appellant/Petitioner

Vs.

1. District Elementary Educational Officer,
Salem District,
Salem.
 2. Additional Assistant Elementary Educational Officer
Omalur,
Salem District.
 3. Correspondent,
Jayarakkini Primary School,
Naranampalayam,
Omalur Range,
Salem District.
 4. The Accountant General,
Chennai - 18
- ... Respondents/Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 11-11-2011 in W.P. No. 9575 of 2011 on the file of this Court.

WP.NO.9575/2011:

Calling for the records pertaining to the order passed by the 2nd respondent in his proceedings Na.Ka.No.2068/AA2/2010 dt.25.12.2010 and quash the same and direct the respondents to enhance the pension of the petitioner from Rs.12461/- to Rs.12955/- and confer all the consequential benefits to the petitioner.

For Appellant : Mr. P. Ganesan

For Respondents : Mr. C. Munusamy,
Spl. Government Pleader for R1 & R2
M/s. Hema Muralikrishnan for R4
R3 - No Appearance

J U D G M E N T

(Delivered by M.M.Sundresh,J.)

Though the appellant has sought the relief based upon the Government Order passed, i.e., G.O.Ms.No.234 dated 1.6.2009, in view of the admitted position that the appellant has reached the age of superannuation on 30.06.2005, his pension has to be revised in terms of G.O.Ms.No.235, dated 1.6.2009. The very same stand has been taken by the Respondent No. 4 in the counter affidavit filed, which is extracted hereunder:-

"3. It is submitted at the outset that the Petitioner having been retired on 30.06.2005, his pension has to be revised in terms of G.O. 235 dated 1.6.2009 only, which is applicable to pensioners as on 1.1.2006. G.O. 234 dated 1.6.2009 is applicable to those employees who are in service on 1.1.2006. Thus, the Petitioner's claim is ab initio untenable.

4. It is submitted that as per Para (vi) G.O. 235 and clarificatory letter No. 34124/(Pay Cell)/2009 dated 26.6.2009 Column 10, the Government have clarified that in the case of pensioners, the pension has to be revised either in terms of Annexure 5 to G.O. 235 dated 1.6.2009 or at 50% of the minimum of the pay + grade Pay applicable to the post as on 1.1.2006 whichever is beneficial to the pensioners.

5. It is respectfully submitted that while the monthly pension as per Annexure 5/page 55/G.O. 235 worked out to Rs.12461/-, by the alternative method, the monthly pension worked out to Rs.10500 - [50% of (Rs.15600+Rs.5400) i.e. 50% of Rs.21000]. Therefore the revised pension of the Petitioner was correctly fixed at Rs.12461/- by the disbursing authority concerned."

In view of the above, the writ appeal stands disposed of with the observation that in the event of the Respondent No.4 not complying with the statement made, as recorded above, the same will have to be done within a period of two weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssm

To:

1. The District Elementary Educational Officer,
Salem District,
Salem.
2. The Additional Assistant Elementary Educational Officer
Omalur,
Salem District.
3. The Accountant General,
Chennai - 18

+1cc to M/s.C.S.Associates, Advocate sr.no.84627
+1cc to Government Pleader sr.no.85065
+1cc to M/s. Hema Muralikrishnan, Advocate sr.no.84265

W.A. No. 480 of 2013

gj(co)
nr 09/01/2019

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