

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2018

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No. 34691 of 2006
and W.P.M.P.No.2 of 2006

Ramalingam

... Petitioner

Vs

1. State of Tamil Nadu through its
Secretary Finance Department
Fort.St.George,
Chennai 9.

2. The District Collector,
Erode District.

3. Accountant General (A&E)
Office of Account General,
261 Anna Salai,
Chennai 18.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the first respondent in G.O.Ms.No.463 Finance (p) Department, dated 31.07.1996 as far as the cut off date given as 01.04.1995 and quash the same as far as the cut off is concerned, thereby directing the first respondent to extend the benefit of the G.O.463 dated 31.07.1996 to the petitioner and consequentially, directing the respondents to pay all the pensionary benefits to the petitioner.

For Petitioner : Mr.A.R.Nixon

For Respondents : Mr.G.B.Rajesh, GA
for R1 & R2

Mr.V.Vijayshankar for R3

O R D E R

The order passed by the 1st respondent in G.O.Ms.No.463 finance Department dated 31.07.1996 as far as the cut off date given as 01.04.1995 is sought to be quashed and further direction is sought for to direct the 1st respondent to extend the benefit of the G.O.Ms.No.463 dated 31.07.1996.

2. The learned counsel for the writ petitioner states that the similar issue with reference to the G.O.Ms.No.764 dated 27.09.1995 and G.O.Ms.No.463 dated 31.07.1996, this Court passed an order in W.P.No.34691 of 2006 dated 05.04.2006. Relying on the said order passed by the learned Single Judge of this Court, the learned counsel for the petitioner states that the present writ petition is to be allowed.

3. The learned counsel on appearing for the respondents disputes the said contention by stating that undoubtedly, this Court passed an order in W.P.No.36726 of 2006. However, in respect of the very same issue, the State preferred an appeal in W.A.No.1570 of 2007 and the Honourable First Bench of this Court allowed the writ appeal on 03.08.2016 and dismissed the writ petition.

4. The learned counsel for the third respondent states that the Honourable Supreme Court passed orders based on the Judgement of the Apex Court, the Government issued in G.O.Ms..363 Finance (PGC) Department dated 23.08.2013. The revision of pension in respect of those who have retired on or after 01.06.88 up to 31.12.1995, for reckoning various percentages of pay+dearness allowance received during the average emolument period that is last 10 months as Additional Dearness allowance to be added with the basic pay + DA for the purpose of pension. The writ petitioner is entitled to get the said benefit service G.O.363 Finance (Pension) dated 23.08.2013.

5. In view of the submissions, made by the respective learned counsel for the petitioner and the respondent, this Court is of the opinion that the relief as such for cannot be granted. Furthermore, there is a long delay even in filing the writ petition. The G.O.Ms.NO.463 dated 31.07.1996 and the writ petition was filed on 15th September 2006, after lapse of about 10 years. This apart, the 3rd respondent filed a counter, stating that pursuant to the orders of the Honourable supreme Court, the Government issued G.O.Ms.No.363, Finance Department dated 23.08.2013. Thus, the writ petitioner is eligible to get the benefits under the above Government order.

6. In this view of the matter, the respondents are directed to consider the case of the writ petitioner with reference to

the G.O.Ms.No.363 dated 23.08.2013 and revise the pension as applicable and as per the Government orders in force without any further delay.

7. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kak/kmm

To

1. State of Tamil Nadu through its
Secretary Finance Department
Fort.St.George,
Chennai 9.
2. The District Collector,
Erode District.
3. Accountant General (A&E)
Office of Account General,
261 Anna Salai,
Chennai 18.

+1 cc to M/s.A.R.Nixon, Advocate Sr.No.88597

+1 cc to Mr.V.Vijay Shankar, Advocate Sr.No.88726

VG-II(CO)
CSL/22.01.2019

सत्यमेव जयते

W.P.No. 34691 of 2006

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