

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.02.2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.3635 of 2018

S.Lalithambal

... Petitioner

Versus

1. The Secretary to Government of Tamil Nadu,
Finance Department,
Fort St. George,
Chennai-9.

2. The Accountant General (A&E) of Tamil Nadu,
Office of the Accountant General,
Teynampet, Chennai-18.

3. The Pension Pay Officer,
Saidapet, Chennai-15.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to pass orders for continuance of the revision of pension from 1.1.1996 based on the petitioner's pension fixed at Rs.1973/- as per G.O.Ms.No.363 dated 23.8.2013 with consequential revision and direct the respondents to pay the arrears of the difference amount within a time stipulated by this Court.

For Petitioner : Ms.B.Radhika

For Respondents : Mr.V.Kadhirvelu,

1 and 3 Special Government Pleader

ORDER

The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the 1st respondent to pass orders for continuance of the revision of pension from 1.1.1996 based on the petitioner's pension fixed at Rs.1973/- as per G.O.Ms.No.363, Finance (PGC) Department, dated 23.8.2013 with consequential revision and further directing the respondents to pay the arrears of the difference amount within a time stipulated by this Court.

2. Learned Counsel for the petitioner submitted that the petitioner joined the Government Service as Junior Assistant on 01.07.1958 and retired from service on 31.07.1993 in the post of Lay Secretary Grade II and her pension was fixed at Rs.1300/-. However, the Government of Tamil Nadu by an order dated 09.08.1989 has granted pension re-fixation adopting different benefits to the retired officials by segregating them into two categories. Those who retired prior to 1.6.1988 was granted higher benefits, including the Dearness Allowance at a higher rate and those who retired from 1.6.1988 to 31.12.1995 were granted only 13% of Dearness Allowance for computing pension. This disparity was challenged by the Association of Retired Officers in W.P.No.32045/2005 and this Court allowed the same by order dated 20.04.2006 and the appeal preferred against the same by the State was allowed by a Division Bench of this Court in

W.A.No.1002/2006 by order dated 17.12.2007. Thereafter, the Association filed Civil Appeals before the Hon'ble Apex Court in Civil Appeal No.8848/2012 etc. batch which were allowed by the Apex Court by order dated 17.01.2013. Following the order of the Supreme Court, the Government of Tamil Nadu has issued G.O.Ms.No.363 dated 23.8.2013 granting benefits to the officials who retired after 01.06.1988.

3. The learned Counsel for the petitioner further submitted that according to the directions given in G.O.Ms.No.363 dated 23.8.2013, the petitioner's pension was calculated and forwarded to the 2nd respondent for admitting the revised pension and accordingly, the revised pension was fixed at Rs.1973/- from the date of her retirement, i.e. from 01.08.1993 and arrears of difference at Rs.673/- (1973-1300) and Dearness Allowance amounting to Rs.20,120/- have been paid to the petitioner for the period from 01.08.1993 to 31.12.1995 for 29 months only. But, the revised pension at Rs.1973/- was not continued beyond 31.12.1995.

4. The learned Counsel for the petitioner also submitted that when the petitioner requested the 3rd respondent for continuance of the pension beyond 01.01.1996 she was informed that she is not eligible for the continuation as the Government has issued Clarification by a Letter No.61496 (Ms.)/PGC/2013 dated 4.2.2014. Therefore, the

petitioner made a representation to the 3rd respondent on 6.6.2017 with a copy addressed to the 2nd respondent followed by another representation dated 1.6.2017. Since there was no response for the same, the petitioner is before this Court with this Writ Petition.

5. Heard the learned Counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 3.

6. When the claim of the petitioner for continuance of the revised pension beyond 01.01.1996 has been rejected by the 3rd respondent citing the reason that the Government has issued Clarification in Letter No.61496 (Ms.)/PGC/2013 dated 4.2.2014 and as per the said clarification, the petitioner is not eligible to receive the revised pension beyond 1.1.1996, without challenging the same, the petitioner cannot come to this Court by way of filing the Writ Petition, that too, belatedly.

7. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs.

20.02.2018

Index:Yes/No

Internet:Yes/No

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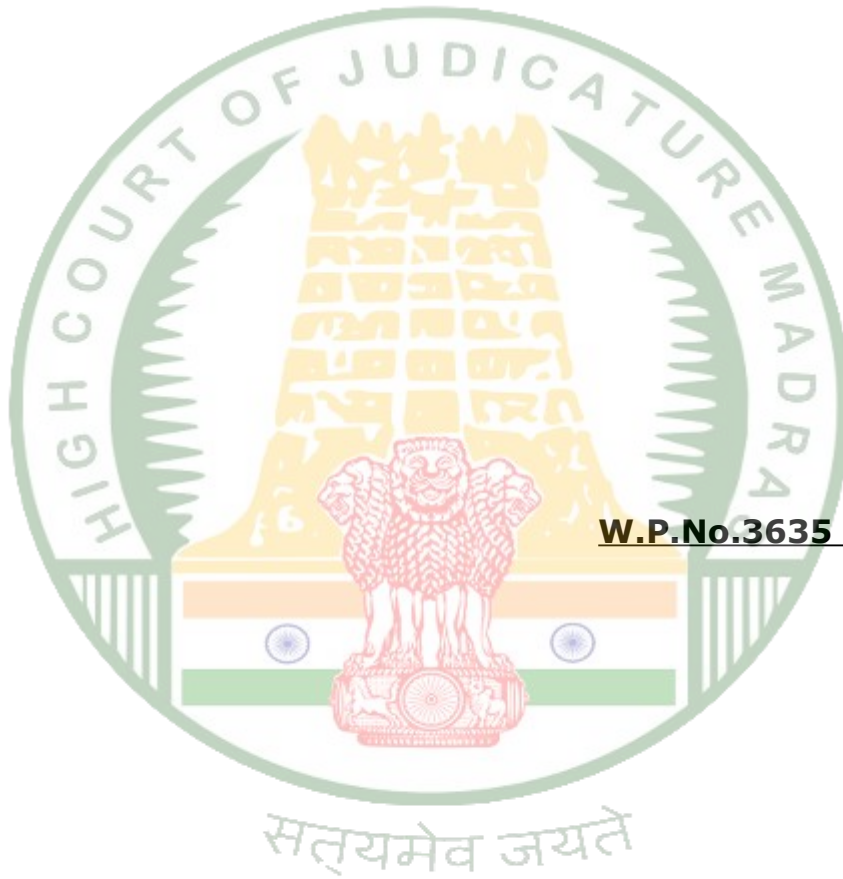
1. The Director of Elementary Educational Officer,
No.143, College Road,
Nungambakkam, Chennai-6.
2. The District Elementary Educational Officer,
Vellore District.
3. The Additional Assistant Elementary Educational
Officer, Gudiyattham, Vellore District.



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T.RAJA, J.

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