

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2018

CORAM:

THE HON'BLE MR.JUSTICE M.VENUGOPAL
AND
THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.2522 of 2018

R.Ramaraaj

... Petitioner

vs.

1.The Registrar General,
High Court,
Madras.

2.The Principal Accountant General,
(Accounts & Entitlements), Tamil Nadu,
No.361, Anna Salai,
Chennai-600 018

3.The Senior Accounts Officer/GAD
Office of the Principal Accountant General,
(Accounts & Entitlements) Tamil Nadu,
No.361, Anna Salai,
Chennai-600 018

4.Thiru N.Ramachandran
District Judge (Retd),
Residing at No.24/29,
Chavadi Street,
Korattur,
Chennai-600 080

5.The Pay and Accounts Officer,
High Court,
Chennai-600 104

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, to call for the entire records pertaining to the communication of the Second Respondent, signed by the Third Respondent in GADIV/AAO/123-14249, dated 11.05.2017, and to quash the same and direct the First Respondent to give all monetary benefits from 07.05.2017 as per G.O.Ms.No.977 dated 06.10.1986, and further settle the difference of pay and allowances for the Re-

employment period from 16.06.2011 to 06.07.2012 and 2013 to 2015.

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.M.Baskar for R1
Ms.Hema Muralikrishnan for R2 and R3
Mr.S.N.Parthasarathy,G.A.
For R5

ORDER

(Order of the Court was made by M.VENUGOPAL,J.)

The Petitioner has preferred the present Writ Petition praying for passing of an Order by this Court in calling for the entire Records relating to the Communication of the Second Respondent/Principal Accountant General (Accounts & Entitlements), Tamil Nadu, signed by the Third Respondent/Senior Accounts Officer/GAD, Office of the Principal Accountant General (Accounts & Entitlements), Tamil Nadu, in GADIV/AAO/123-14249, dated 11.05.2017 and to quash the same. Further, the Petitioner has sought for passing of a consequential Order by this Court in directing the First Respondent/High Court of Madras, represented by Registrar General, Chennai-104, to grant all monetary benefits from 07.05.2007 as per G.O.Ms.No.977, dated 06.10.1986 and also to settle the difference of Pay and Allowances for the 'Re-employment' period from 16.06.2011 to 06.07.2012 and 2013 to 2015.

2.Heard the Learned Counsel for the Petitioner, Mr.M.Baskar, the Learned Counsel for the First Respondent, Ms.Hema Muralikrishnan, the Learned Counsel for the Second and Third Respondent and Mr.S.N.Parthasarathy, the Learned Government Advocate for the Fifth Respondent.

3.Even though service of notice to R4 is awaited, this Court proceeds to deal with the present Writ Petition on merits of the matter.

4.According to the Petitioner, he joined as Judicial Second Class Magistrate on 24.02.1983 in Tamil Nadu State Judicial Service and then promoted as Civil Judge (Senior Division) on 14.3.2001. The Fourth Respondent was his immediate Junior throughout i.e. both in the cadre of Judicial Second Class Magistrate and also in the cadre of Civil Judge (Senior Division).

5.The stand of the Petitioner is that on 07.05.2007, the First Respondent, without any reason had ignored him and

promoted the Fourth Respondent as Additional District Judge (Fast Track Court) on Adhoc Basis completely ignoring his seniority, putting a dent and causing a blow to his sincere service rendered so far. After a period of one year and four months from the time of promoting the Fourth Respondent as Additional District Judge (Fast Track Court) on Adhoc Basis, the Petitioner was promoted as Additional District Judge (Fast Track Court) on Adhoc Basis on 01.09.2008. But, his Seniority was not re-fixed in the cadre of Additional District Judge (Fast Track Court) by the First Respondent. That apart, the plea of the Petitioner is that while granting him a belated promotion, after a period of one year and four months, for no fault of his, neither his Seniority was re-fixed in the cadre of Additional District Judge (Fast Track Court) nor his pay was re-fixed on par with the higher pay being received by the Fourth Respondent (the Petitioner's Junior).

6. At this stage, the Learned Counsel for the Petitioner brings it to the notice of this Court that after a period of one year from the date of Petitioner's promotion as Additional District Judge (Fast Track Court) on Adhoc Basis, he was promoted as District Judge (Entry Level) on Adhoc Basis on 04.09.2009 and later, the Fourth Respondent was promoted as District Judge (Entry Level) on Adhoc Basis on 01.12.2009. The Petitioner attained the Superannuation on 30.06.2010 and retired from service and that the Fourth Respondent also retired on 31.07.2010.

7. The Learned Counsel for the Petitioner proceeds to point out that the Petitioner had submitted a Representation before the First Respondent on 11.11.2011, whereby and whereunder, he had requested the First Respondent to pass necessary Orders restoring his Seniority over and above the Fourth Respondent notionally, in the post of Additional District Judge (Fast Track Court) on Adhoc Basis without any monetary benefits so as to enable him to seek the benefit of rectifying the anomaly of Junior getting more pay than the Senior in the cadre of District Judge (Entry Level).

8. The Learned Counsel for the Petitioner points out that the First Respondent, by a Communication dated 02.11.2012, had stated as under:-

" Since both of you were promoted to the Higher post on the same date and your junior was placed below you in the said cadre without affecting your original seniority.

Therefore, you are requested to substantiate your stand for your request and clarify and

forward the same to the Registry."

Thereafter, the petitioner has substantiated/clarified the issue and sent a representation on 12.12.2012, claiming stepping up of his Pay on par with his Junior notionally, so as to facilitate him to seek the benefit of rectifying the anomaly of Junior getting more pay than the Senior, in the cadre of District Judge (Entry Level). Since the said Representation was also rejected by the First Respondent, the Petitioner had filed a Writ Petition before this Court in W.P.No.17778/2014. The Division Bench of this Court, vide Order dated 10.10.2014, relying upon FR 27 and FR 22B(2), has rendered a categorical finding, which would run as follows:

"Applying the said FR 22-B(2) and 27, if we analyse, eligibility of the Petitioner to step up his pay on par with the Second Respondent (Thiru N.Ramachandran) is beyond doubt."

9.The Learned counsel for the Petitioner refers to the decision of the Hon'ble Supreme Court in Gurucharan Singh Grewal and another vs. Punjab State Electricity Board and Others-reported in (2009) 3 SCC 94, wherein a similar issue was considered and it was observed that "it is a settled principle of law that Senior cannot be paid a lesser salary than his Junior and if Junior is given more pay, the Department is bound to step up the Pay of Senior on par with his Junior."

10.In this connection, the Learned Counsel for the Petitioner strenuously contends that the Principle laid down in the aforesaid Hon'ble Supreme Court decision was not considered by the Third Respondent at the time of passing of the Impugned Order and the Hon'ble Division Bench in W.P.No.17778 of 2014 had remitted the matter back to the First Respondent for consideration of Petitioner's claim seeking to step up his salary on par with his Junior, viz., N.Ramachandran(the 4th Respondent), based on the Seniority without monetary benefits and only for the purpose of getting pensionary benefits etc.

11.The Learned Counsel for the Petitioner puts forward an argument that as against the Order dated 10.10.2014, in W.P.No.17778 of 2014, passed by this Court, no Appeal was filed by the Respondents and after attaining Superannuation, the Petitioner was 'Re-employed' as Additional Judge (Recording Evidence-I), Court of Small Causes, Chennai, for the period from 16.6.2011 to 6.7.2012 and thereafter from 2013 to 2015 as President, District Consumer Disputes Redressal Forum, Salem and then to Coimbatore. Furthermore, in compliance with the Directions issued by this Court in W.P.No.17778 of 2014, dated 10.10.2014, the Fifth Respondent/Pay and Accounts Officer, High

Court, Chennai, had stepped up the Petitioner's pay for the period from 16.6.2011 to 6.6.2012 without monetary benefits. In fact, the Fifth Respondent had stepped up the Petitioner's pay from Rs.52,780/- to Rs.55,240/- and also authorised the difference in Pay and Allowances for Terminal Leave Salary, by taking into account the increased pay, for calculation of 'Re-employment' Pay from 16.6.2011 to 6.7.2012 and then from 2013 to June 2015.

12.The Learned Counsel for the Petitioner refers to Rule 44(4)(i) of the Tamil Nadu Pension Rules, 1978 which runs as under:-

"44.Regulation of pay in case of re-employed Government Pensioner- (1)The authority competent to fix the pay and allowances of the Post in which a pensioner is re-employed shall determine whether the pension shall be held wholly or partly in abeyance. If pension is drawn wholly or in part, such authority shall take the amount of such pension into account in fixing the pay to be allowed to him.

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(4)(i)The general principle governing the fixation of pay of a re-employed pensioner in the same or similar post is to allow him to draw his pension in full and in addition such pay as will bring his total emoluments up to the rate of pay drawn by him on the date of his retirement."

13.The Learned Counsel for the Petitioner also submitted that the Third Respondent/Senior Accounts Officer, Office of the Principal Accountant General (Accounts and Entitlements), Tamil Nadu, Chennai, by referring to the aforesaid Rule 44(4)(i) of the Tamil Nadu Pension Rules, 1978, addressed to the First Respondent/Registrar General, High Court, Madras, the Impugned Communication dated 11.5.2017 (with a copy being marked to the Petitioner), whereby and whereunder it is stated as under:-

"The re-employment pay is based on the pay last drawn by the Government servant on the date of his retirement and any un-drawn pay to be ignored as per Proviso(i) below Note 1 under TNPR 30.

Hence, I am to request you to kindly verify at your end if there are any other terms and

conditions in addition to the above for fixation on re-employment and if not to kindly issue necessary instructions to Pay and Accounts Officer, High Court, Chennai, for recovery of excess paid re-employment pay and allowances for the period from 16.6.2011 to 6.7.2012."

Being dissatisfied with the aforesaid Communication sent by the Second Respondent to the First Respondent, the Petitioner has preferred the instant Writ Petition.

14. Advancing his arguments, the Learned Counsel for the Petitioner submits that the Impugned Communication dated 11.5.2017 sent by the Third Respondent to the First Respondent is clearly against the Order passed by the Division Bench of this Court in W.P.No.17778 of 2014 dated 10.10.2014.

15. The Learned Counsel for the Petitioner contends that the Second Respondent placed reliance upon Proviso (1) below Note 1 to Rule 30(1) of the Tamil Nadu Pension Rules, 1978, to oust the claim of the Petitioner for fixation of his 'Re-employment Pay', stating that the same has no application to the facts of the case.

16. The yet another stand taken by the Learned Counsel for the Petitioner is that the Second Respondent should have considered Proviso (2) below Note 1 of Rule 30(1) of the Tamil Nadu Pension Rules, 1978, which is to the effect that if a Government Servant, immediately before his retirement or death, while in service, had been absent from duty on leave, for which leave salary is payable or having been suspended and had been reinstated without forfeiture of service, the emoluments, which he would have drawn had he not been absent from duty or suspended, shall be the emoluments for the purpose of this Rule, provided that any increase in pay consequent on the 'Revision of Pay' which is not actually drawn shall form part of his emoluments.

17. Expatiating his submission, the Learned Counsel for the Petitioner points out that the Second Respondent should have considered that Rule 30(1) of the Tamil Nadu Pension Rules, 1978 deals only with the cases of Leave Salary and does not deal with the cases of Revision of Pay of the individuals.

18. Moreover, it is represented on behalf of the Petitioner that the Proviso (2) below Note 1 to Rule 30(1) of the Tamil Nadu Pension rules, 1978, clearly emphasizes that any increase in Pay consequent on the 'Revision of Pay', which is not actually drawn, shall form part of the emoluments and by differentiating the Petitioner with his Junior for doing the

same kind of work with different pay scales; nor fixing incremental scale of pay dependent upon the duration of officer in service or fixing different scales of pay employed in the same post on the ground of their being recruited from different sources or different methods of recruitment, amounts to clear violation of Article 14 of the Constitution of India.

19. Lastly, it is projected on the side of the Petitioner that the Petitioner, in the earlier Writ Petition, omitted to claim monetary benefits from 7.5.2007, as per G.O.Ms.No.977 dated 6.10.1986 and hence, has filed the present Writ Petition.

20. Per contra, it is the contention of the Learned Counsel for the First Respondent that the then Hon'ble Selection Committee, in the meeting held on 7.4.2007 and subsequent dates for promotion to the cadre of District Judge (Entry Level) and Additional District Judge, Fast Track Court, on Adhoc Basis, while considering 93 eligible members (mentioned therein) of the Cadre of Civil Judge (Sr.Division), including Additional District Judge of Fast Track Court, in respect of Additional District Judge, Fast Track Court, recommended the names of 54 members (mentioned therein) for 'Adhoc Promotion' against then existing vacancies and future vacancies and 12 members (mentioned therein including the Writ Petitioner at Sl.No.11) have not been found fit for promotion to the post of District Judge (Entry Level) and/or Additional District Judge, Fast Track Court, on Adhoc Basis and so their names were not recommended.

21. The Learned counsel for the First Respondent draws the attention of this Court to the fact that the then Selection Committee, in the meeting held on 11.07.2007, had considered the Petitioner's Representation along with the other Officers, their case on merit-cum-seniority, suitability, service records and other records, there being no special ground made out to vary the earlier Order and resolved to reject the Representations for Promotion to the post of District Judge (Entry Level) and/or Adhoc Additional District Judge, Fast Track Court.

22. The Learned Counsel for the First Respondent points out that the then Hon'ble Selection Committee, in the meeting that took place on 31.07.2008 for Promotion to the cadre of Additional District Judge, Fast Track Court, on Adhoc Basis, had considered the case of 19 eligible members (mentioned therein) and recommended the case of 16 members (including the Writ Petitioner at Sl.No.4 therein) for Promotion against the existing and future vacancies of Additional District Judge, Fast Track Court, that may fall vacant by 30th June, 2009.

23. In effect, the stand of the First Respondent/High

Court, Madras, is that the request of the Petitioner, then Additional District and Sessions Judge (Fast Track Court No.3), Singaravelar Maaligai, dated 5.01.2009, to restore his Seniority from the date of his initial appointment with all benefits with prospective effect so as to enable him to get the post of regular District Judge, was considered by the then Administrative Committee in the meeting held on 28.4.2009 and it was resolved to reject the Representation submitted by the Petitioner.

24.The Learned Counsel for the First Respondent submits that the Petitioner's Representation dated 11.11.2011 for restoration of Seniority for the purpose of getting enhanced retirement benefit was considered by the then Hon'ble Administrative Committee in the Meeting held on 28.01.2013 and it was resolved 'to reject the Representation of R.Ramaraj, (the Petitioner), District Judge (Entry Level) (Retired), then functioned on 'Re-employment' as Additional Judge-I (for recording evidence), Court of Small Causes, Chennai, now relieved from the said post, as there is no merit."

25.The Learned Counsel for the First Respondent refers to the High Court's Letter in Roc.N.2/2009-Con.B.2, dated 02.11.2012, wherein, the Registrar of this Court had requested the Petitioner to substantiate his stand and clarify his position and in fact, the Petitioner had submitted a Clarification, vide his Letter dated 12.12.2012, and the same was rejected as there was no merit in it.

26.As against the said Rejection Order, the Petitioner had earlier filed W.P.No.17778 of 2014 and this Court, while disposing of the said Writ Petition, on 10.10.2014, had set aside the Impugned Order of the Third Respondent and remitted the matter back to the First Respondent for consideration of Petitioner's claim seeking to step up his salary on par with his Junior, viz., N.Ramachandran (the Second Respondent therein) based on the Seniority without Monetary benefit and only for the purpose of getting Pensionary benefits.

27.The Learned counsel for the First Respondent submits that pursuant to the directions issued by this Court in the aforestated Writ Petition in W.P.No.17778 of 2014, dated 10.10.2014 and in obedience of the same, the First Respondent/High Court, Madras, had requested the Government to issue necessary Orders of the Government in the High Courts, D.O.Letter No.184-A/2011/RG-B-2, dated 12.02.2015, after getting particulars from the Second Respondent/Accountant General, Chennai and the Fifth Respondent/Pay and Accounts Office, High Court, Madras.

28.The Learned Counsel for the First Respondent refers to the Fifth Respondent's Letter in Rc.No.PAO(HC)/BAS I/Unit II/2015/3014, dated 11.06.2015, wherein it was mentioned that consequent on the issue of the High Court Order, the Pay of Thiru R.Ramaraj, formerly District Judge (Entry Level), has been stepped up on par with his Junior Thiru N.Ramachandran(4th Respondent), based on Seniority, without monetary benefit and only for the purpose of obtaining Pensionary Benefits. Accordingly, the Petitioner was authorised to draw the difference in Pay and Allowance for the period from 07.05.2007 to 30.06.2010.

29.The Learned Counsel for the First Respondent contends that the Third Respondent/The Senior Accounts Officer, Office of the Principal Accountant General(Accounts & Entitlement), Tamil Nadu, in Letter No.GADIV/AAO/121-14238, dated 11.05.2017, had stated that consequent on issue of Court Orders, the Pay and Accounts Officer, High Court, Madras, had stepped up the pay of the Petitioner (R.Ramaraj), who, then functioned as X Additional Judge, City Civil Court, Chennai and retired from the Tamil Nadu State Judicial Service on 30.06.2010 A.N. on attaining the age of Superannuation and then 'Re-employed' as Additional Judge (Recording evidence-II), Court of Small Causes, Chennai, for the period from 16.06.2011 to 06.07.2012, without monetary benefits.

30.The Learned Counsel for the First Respondent refers to the Letter of the Fifth Respondent/Pay and Accounts Officer, High Court, Madras, dated 04.08.2015 and points out that the Petitioner was authorised to draw the difference in Pay and Allowance in respect of Terminal Leave Salary and the increased Pay at Rs.55,240/- was also taken into account for calculation of re-employment pay from 16.06.2011 to 06.07.2012 and as already pointed out, it was reiterated that the 'Re-employment Pay' was to be regulated under Sub-Rule 4(i) of Rule-44 of the Tamil Nadu Pension Rules, 1978, viz., Last Pay Drawn while in service (minus) the Pension.

31.The Learned Counsel for the First Respondent in sum and substance submits that the 'Re-employment Pay' is based on the Pay Last Drawn by the Government Servant on the date of his retirement and any un-drawn Pay has to be ignored as per Proviso (1) below Note 1 under Rule 30(1) of the Tamil Nadu Pension Rules, 1978. Further, the Petitioner was requested to verify if there are any other terms and conditions in addition to the above, for fixation of 'Re-employment Pay' and if not, to kindly issue necessary instructions to Pay and Accounts Officer, High Court, Madras, for recovery of excess amount paid for 'Re-Employment Pay and Allowances' for the period from 16.06.2011 to 06.07.2012.

32.The First Respondent, on 18.05.2017, by way of reply, had informed the Third Respondent/Senior Accounts Officer, GAD-IV Section, Office of the Accountant General (A & E), Tamil Nadu, Chennai-18 that the Proviso added (vide G.O.Ms.No.705, Finance (Pension) Department, dated 15.11.1996), under the existing Proviso, under Note 1 to Rule-30(1) of the Tamil Nadu Pension Rules, 1978, reads that:

"any increase in pay consequent on the Revision of Pay which is not actually drawn shall form part of his emoluments"

and hence, the High Court had requested the Office of the Second Respondent/Principal Accountant General (A & E), Tamil Nadu, Chennai, to clarify whether the fixation of 'Re-employment Pay' of the Petitioner (erstwhile District Judge (Entry Level) and retired from Tamil Nadu State Judicial Service on 30.06.2010 A.N. at Rs.55,240/- for the period from 16.06.2011 to 06.07.2012, by the Fifth Respondent/Pay and Accounts Officer, High Court, Madras, is in order or otherwise.

33.The Learned Counsel for the First Respondent points out that the Third Respondent/The Pay and Accounts Officer, High Court, Madras, in the Communication dated 07.08.2017, had informed the First Respondent/High Court, Madras, by reiterating that the 'Re-employment Pay' has to be regulated under sub-Rule 4(1) of Rule 44 of the Tamil Nadu Pension Rules, 1978, i.e. Last Pay Drawn while in service (minus) the Pension and that the 'Re-employment Pay' is based on the Pay Last drawn by the Government Servant on the date of retirement and any un-drawn Pay to be ignored, as per Proviso (1) below Note 1 to Rule 30 of the Tamil Nadu Pension Rules, 1978. Added further, the term 'Re-employment' is not a Terminal/Pensionary benefit and as such, the claim of the Petitioner for stepping up of his pay notionally for any 'Re-employment' is inadmissible in Law.

34.The Learned counsel for the Second and Third Respondent submits that the Fifth Respondent had stepped up the Petitioner's Pay on par with his Junior, viz., the Fourth Respondent, as per Proceedings dated 11.6.2015 and in fact, the Pensionary benefits of the Petitioner were revised on 08.07.2015 and further that the Petitioner, who was 'Re-employed', after his retirement, as Additional Judge, Court of Small Causes, from 16.06.2011 to 06.07.2012, and hence, his Pay was fixed by the Fifth Respondent for the period from 16.06.2011 to 06.07.2012, by virtue of Proceedings dated 20.10.2016 at Rs.55,240/- per month. Further, the Second Respondent, through Letters dated 09.01.2017 and 11.05.2017 pointed out that fixing the 'Re-employment Pay' of the Petitioner is not in order, as per the

Provisions of Rule 44(4)(i) of the Tamil Nadu Pension Rules, 1978 and sought for clarification as to the existence of any specific terms and conditions for fixation of 'Re-employment Pay'.

35.It is contended on behalf of the Second and Third Respondents, as per the ingredients of Rule 44(4)(i) of the Tamil Nadu Pension Rules, 1978, the general principle governing the fixation of Pay of the 'Re-employed Pensioner in the same or similar post is to allow him to draw his pension in full and in addition, such pay as will bring his total emoluments up to the rate of pay drawn by him on the date of his retirement. In fact, the actual pay drawn by the Petitioner, at the time of his retirement was Rs.52,780/- only and not Rs.55,240/-

36.The Learned Counsel for the Second and Third Respondent emphatically takes a stand that 'Re-employment Pay' is not a pensionary benefit and as per Proviso below ruling 17 under FR 27, in case, where a Government servant has been overlooked for promotion/appointment to the next higher post, but subsequently promoted/appointed to that next higher post, after restoration of his original seniority on appeal, his pay shall be fixed on the date of assumption of charge in the higher post on par with the pay of his Junior, provided that in the case of Government servants whose names were deferred for inclusion in the panel for promotion to higher post, subsequently included after the date of their retirement on Superannuation on Appeal or Review, their Pay shall be fixed notionally on the date of their retirement on Superannuation at the stage at which they would have drawn, had they been promoted or appointed to the higher post along with their Junior for the purpose of pension and other terminal benefits.

37.The Learned Counsel for the Second and Third Respondent submits that the notional pay has to be taken into account only for the purpose of calculation of pensionary benefits and accordingly the Petitioner's Pensionary benefits were revised on 08.07.2015 itself and that apart, by no stretch of imagination, it would mean that the Petitioner's 'Re-employment Pay' has to be revised based on the notional Pay.

38.Lastly, it is projected on the side of the Second and Third Respondent that since the action of the Fifth Respondent/Pay and Accounts Officer, High Court, Chennai, in fixing the 'Re-employment Pay' of the Petitioner (relating to the period from 16.6.2011 to 6.7.2012) at Rs.55,240/- was not in accordance with the aforesaid provisions, the Impugned Proceedings came to be issued by the Third Respondent and as such, the claim of the Petitioner seeking to fix his 'Re-employment Pay' at Rs.55,240/- during the period of his re-

employment, after his retirement, cannot be entertained.

39.The Learned Government Advocate for the Fifth Respondent submits that the Fifth Respondent, vide his Letters in RC.No.PAO(HC)3906/BASI/Unit II/2015, dated 22.9.2015 and Rc.No.PAO(HC)3907/BASI/Unit II/2015, dated 22.09.2015, had informed the Petitioner that as per the High Court Rc.No.184-A/2011-RG-B2, dated 14.09.2015, a separate authorisation was addressed to the Petitioner through Principal Judge, City Civil Court and Chief Judge, Court of Small Causes, Chennai and the same was claimed and paid to him.

40.Be that as it may, on a careful consideration of the respective contentions and also this Court, taking note of the attendant facts and circumstances of the present case in an encircling manner, is of the earnest opinion that the 'Re-employment Pay' has to be regulated under Sub-Rule 4(i) of Rule 44 of the Tamil Nadu Pension Rules, 1978, viz., 'Last Pay drawn while in service less the Pension' and further that, the 'Re-employment Pay' is based on the pay Last Drawn by the Government Servant on the date of retirement and any un-drawn pay has to be ignored as per Proviso (1) below Note 1 to Rule 30 of the Tamil Nadu Pension Rules, 1978. Added further, the term 'Re-employment' is not a Terminal/Pensionary benefit and therefore, stepping up of pay notionally, for any 'Re-employment' is inadmissible in Law. Inasmuch as the Petitioner's Pensionary benefits were revised as early as on 08.07.2015 itself and further, the action of the Fifth Respondent/Pay and Accounts Officer, High Court, Madras, in fixing the 'Re-employment Pay' of the Petitioner (for the period from 16.6.2011 to 6.7.2012) at Rs.55,240/- (Rupees Fifty Five Thousand Two Hundred and Forty), is incorrect, in the considered opinion of this Court and suffice it for this Court to succinctly point out that the Impugned Proceedings of the Third Respondent (from the Office of the Second Respondent), dated 11.05.2017, for recovery of excess paid 'Re-employment Pay and Allowances' for the period from 16.6.2011 to 6.7.2012 cannot be found fault with. Viewed in that perspective, the Writ Petition sans merits.

In fine, the Writ Petition fails and the same is dismissed. No costs.

sd/-

Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

msk

To

1.The Registrar General,
High Court,
Madras.

2.The Principal Accountant General,
(Accounts & Entitlements), Tamil Nadu,
No.361, Anna Salai,
Chennai-600 018

3.The Senior Accounts Officer/GAD
Office of the Principal Accountant General,
(Accounts & Entitlements) Tamil Nadu,
No.361, Anna Salai,
Chennai-600 018

4.The Pay and Accounts Officer,
High Court,
Chennai-600 104

+1cc to Mr.D.Rajagopal, Advocate SR.No.39875

+1cc to Mr.Hema Muralikrishnan, Advocate SR.No.40085

+1cc to Government Pleader SR.No.40912

W.P.No.2522 of 2018

AD(CO)
GN(27/06/2018)



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