



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2018

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WEB COPY

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.8649 of 2018

R.Kumarasamy : Petitioner

Vs.

1.The Secretary to Government,
School Education Department,
Secretariat, Chennai - 600 009.

2.The Accountant General (A&E),
No.361, Anna Salai,
Chennai - 600 018.

3.The Assistant Elementary Educational Officer,
Narikudi,
Virudhunagar District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent ie., the Accountant General, Chennai, relating to his letter No.P17/2/11718272/ADK dated 14.03.2018 and quash the same and consequently direct the respondents to sanction the last increment which fell due on 01.07.2000 to the petitioner and to send revised pension proposals within a specified time frame that may be fixed by this Court.

For Petitioner	: Mr.S.Visvalingam
For Respondents 1&3	: Mrs.S.Srimathy Special Government Pleader
For Respondent No.2	: Mr.P.Gunasekaran Standing Counsel

O R D E R

The prayer sought for in this writ petition is for a Writ of Certiorarified Mandamus, calling for the records of the second respondent ie., the Accountant General, Chennai, relating to his letter No.P17/2/11718272/ADK dated 14.03.2018 and quash the same and consequently direct the respondents to sanction the last increment which fell due on 01.07.2000 to the petitioner and to send revised pension proposals.



2. Heard Mr.S.Visvalingam, learned Counsel appearing for the petitioner, Mrs.S.Srimathy, learned Special Government Pleader, appearing for the first and third respondents and Mr.P.Gunasekaran, learned Standing Counsel appearing for the second respondent.

3. By consent, the writ petition is taken up for final disposal at the admission stage itself.

4. The short facts, which are required to be noticed for disposal of this writ petition are as follows:

4.1. The petitioner was serving as Head Master, Special Grade, in a Panchayat Union primary school at Pillaiyarkulam, Narikudi Union, Virudhunagar District and he retired from service on his superannuation on 30.06.2000. Though, he retired on 30.06.2000, the very next day, the next increment falls ie., on 01.07.2000. But, the same was not sanctioned by the authorities. In this regard, very many representations were given to the respondents by the petitioner. But, no order so far has been passed.

4.2. His representation dated 18.12.2017, was forwarded by the 3rd respondent to the second respondent, instead of 1st respondent. Hence, the 2nd respondent, on considering the same has passed the impugned order dated 14.03.2018, rejecting the proposal. Challenging the same, this writ petition has been filed.

5. Learned Counsel appearing for the petitioner would submit that in the impugned order, the second respondent has stated that as per G.O.(Ms).No.311, Finance (CMPC) Department dated 31.12.2014, the consideration of sanctioning of notional increment which falls on the next date of the superannuation date of the employee shall be given effect to only from the date of the Government Order ie., 31.12.2014 and since the petitioner retired in the year 2010, itself, such a benefit conferred under G.O.(Ms).No.311, Finance (CMPC) Department dated 31.12.2014, cannot be extended to the petitioner and therefore, on that ground, the petitioner's request was turned out.

6. In this regard, the learned Counsel for the petitioner would submit that, the said issue had already been considered by this Court in a number of cases where the Court have taken the view that G.O.(Ms).No.311, Finance (CMPC) Department dated 31.12.2014, shall not be construed only as a prospective effect and the benefit conferred under the said Government Order can be extended to those who already retired prior to the date of the Government Order.

7. In this regard, the learned Counsel for the petitioner is relying upon the decision of this Court made in W.P.(MD)No.166 of 2018 dated 05.02.2018, wherein a similar issue has been considered by this court and the following order has been passed.

"4. Therefore, the first respondent is directed to



sanction the petitioner's last increment which fell due on 01.07.2008 within a period of twelve weeks from the date of receipt of a copy of this order and also disburse the arrears immediately thereafter. Since, the last increment has been directed to be sanctioned, the petitioner's pension will also have to be correspondingly revised. The entire exercise of sanctioning of last increment and revision of the petitioner's pension shall be done within a period of twelve weeks from the date of receipt of copy of this order and arrears will have to be disbursed forthwith."

8. Following the number of orders passed by this Court, I have also considered a similar issue and orders were passed to that effect directing the concerned authorities to consider the cases of the employees who retired prior to the date of G.O.(Ms).No.311 for sanctioning of notional increment.

9. This position is not in controversy, even according to the learned Counsel appearing for the respective respondents. The learned Counsel appearing for the second respondent would submit that, at any rate, the decision is to be taken only by the first respondent. Once they passed an order sanctioning the notional increment to the petitioner which falls on the next date of his superannuation, the second respondent will follow the same in disbursing the financial benefits.

10. Considering the said submission made by the learned Counsel on both sides, this writ petition is disposed of with the following direction:

10.1. Impugned order is quashed.

10.2. The first respondent is directed to sanction the notional increment of the petitioner which falls on 01.07.2000, ie., the next day of his superannuation dated 30.06.2000. On sanctioning such notional increment, the pay benefits and pensionary benefits shall be calculated and shall be sanctioned to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. Once, such order is received from the first respondent, the second respondent shall take into effect the order and disburse the said amount within a period of four weeks thereafter.

11. The writ petition stands allowed to the terms extended above. However, in the facts and circumstances of the case, there shall be no order as to costs.

Sd/-

Assistant Registrar(AS)



To

1. The Secretary to Government,
School Education Department,
Secretariat,
Chennai - 600 009.

2. The Accountant General (A&E),
No.361, Anna Salai,
Chennai - 600 018.

3. The Assistant Elementary Educational Officer,
Narikudi,
Virudhunagar District.

+1 CC to Mr.A.VISVALINGAM, Advocate in SR.No.62249

+1 CC to Mr.P.GUNASEKARAN, Advocate in SR.No.62506

+1 CC to the Special Government Pleader, SR.No. 62519

MR

RJ/RP/SAR-3/26/07/2018 - 4P/7C

ORDER MADE IN
W.P. (MD) No.8649 of 2018
19.04.2018