



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .No.19714 of 2014

N.Kumarasamy

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The District Revenue Officer,
Kanyakumari District,
Nagercoil.

3.The Special Tahsildar,
(Adi Dravidar Welfare)
Padmanabhapuram,
Thuckalay,
Kanyakumari District.

4.The Principal Accountant General (A&E)
Government of Tamil Nadu,
Annasalai,
Chennai-18.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the 1st respondent made in B1/13248/2013 dated 11.08.2014 and to quash the same and direct 1st respondent to issue suitable directions to respondent 2 to 4 to fix revised scale of pay and pay revised pension as per the guidelines of the Government Lr.No.63305/PC 2010 dated 08.11.2010 and as per G.O.Ms.No.234 (Finance) (PC) dated 01.06.2009.

For Petitioner

: Mr.R.Nandakumar

For Respondents

: J.Gunaseelan Muthaiah

Additional Government

Pleader

ORDER

The petitioner joined in the service as Office Assistant on 07.06.1974. He was subsequently promoted as Junior Assistant in the year 1994 and then, as Assistant in the year 1999. On



completion of 10 years of service as Assistant, the petitioner was conferred with Selection Grade Assistant with effect from 31.03.2009 and placed in the corresponding pay scale. Thereafter, he was promoted as fair copy Superintendent with effect from 11.06.2010. He reached the superannuation on 31.01.2012.

2. In the meanwhile, the Tamil Nadu Revised Scales of Pay Rules came to be implemented. Option was given to the employees to come over to the revised scales of pay within a period of three months from the date of publication of the rules/notification.

3. In the present case, the petitioner had exercised such option within the stipulated time. The writ petitioner is covered by G.O.Ms.No.234 dated 01.06.2009. It is clear from the fact that he got promotion as Selection Grade Assistant on 31.03.2009 which is between 01.01.2006 and 31.05.2009. The only ground on which the petitioner has been denied the benefit of coming over the revised scales of pay is that he was undergoing punishment of stoppage of increment for one year with effect from 01.01.2010. It is nowhere stated if a person is undergoing punishment, he can be denied the facility of exercising option. Therefore, the first respondent is wrong in holding that the writ petitioner is in-eligible to exercise option to come over to the revised scale of pay on the date of award of selection grade by foregoing the arrears entitled to him on this ground.

4. Since the ground on which the petitioner is denied is found un-sustainable, the impugned order is quashed. The first respondent is directed to issue appropriate proceedings and direction to the second respondent to fix the revised scale of pay of the writ petitioner. The writ petitioner will also be entitled to revised pension as per the extent of Government guidelines. The ground set out in the impugned order is not a bar in exercising option to come over to the revised scale of pay. Such a direction shall be issued within a period of eight weeks from the date of receipt of a copy of this order. This Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

To:

1. The District Collector, Kanyakumari District, Nagercoil.

2. The District Revenue Officer, Kanyakumari District,

<https://hcservices.nagcoil.org/hcservices/>

3. The Special Tahsildar, (Adi Dravidar Welfare)
Padmanabhapuram, Thuckalay, Kanyakumari District.

4. The Principal Accountant General (A&E)
Government of Tamil Nadu, Annasalai, Chennai-18.



+One cc to M/S.M.R.Sreenivasan, Advocate, SR.No.45698
+One cc to The Special Government Pleader, SR.No.44603 and 45966
rmi
RL/7C/2P/SV/MMS/SAR2/19/2/2018

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