



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2018

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI

Writ Petition (MD).No.18719 of 2017

M.Sugumar

... Petitioner

Vs.

1. The Accountant General (Accounts & Entitlement),
361, Anna Salai, Chennai 600 018.

2. The learned Sub Judge,
Uthamapalayam,
Theni District.

... Respondents

(Second respondent is suo moto impleaded as second respondent
by an order dated 09.03.2018 in W.P.(MD)No.18719 of 2017)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondent to consider FR 22B and government letter dated 03.10.2013 for the purpose of fixation of the petitioner's salary with effect from 05.12.2007 consequently revise his pension with effect from 01.09.2013.

For Petitioner : Mr.P.Veerabaku

For Respondents : Mr.P.Gunasekaran
Standing Counsel

ORDER

(Order of the Court was made by **T.S.SIVAGNANAM, J**)

Heard Mr.P.Veerabaku, learned counsel appearing for the petitioner and Mr.P.Gunasekaran, learned standing counsel appearing for the respondent.

2.In the light of the direction we proposed to issue, we hereby suo moto implead the learned Sub Judge, Uthamapalayam, Theni District, as the second respondent.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The petitioner was appointed as Amin in District Court,



Dindigul, on 17.02.1983, he was promoted as Junior Assistant, Assistant, Translator and Sheristadar in the Sub Court and retired from service on attaining the age of superannuation on 31.08.2013. The petitioner states that he has rendered 30 years of unblemished service in the Judicial Department. The petitioner, by way of this writ petition, prays for a direction to the first respondent to consider FR 22B and the Government letter dated 03.10.2013 for the purpose of fixation of salary with effect from 05.12.2007 and consequently, revise his pension with effect from 01.09.2013.

4.The dispute involved in this writ petition lies in a narrow campus. What is required to be seen is whether the petitioner was functioning in the upgraded post of Superintendent being one among the 364 posts which were upgraded from the cadre of Head Clerk vide G.O.Ms.No.416 Home (Court.V) Department dated 11.03.1993.

5.The first respondent in their counter affidavit stated that on a perusal of the service register of the petitioner, it is found that there is no specific entry made to show that the petitioner was functioning in the upgraded post of Superintendent and therefore, the office of the first respondent returned by revised proposal to the second respondent for making specific entry in the service book that the Head Clerk post, which the petitioner was holding was upgraded as per the G.O.Ms.No.416 Home (Courts V) Department dated 11.03.1993.

6.The first respondent in the counter affidavit undertakes to authorize further revision of pensionary benefits, if the department certifies in the Service Book that the Head Clerk post, to which the petitioner was promoted, is indeed an upgraded post. It is further submitted in the counter affidavit that 5% fixation benefit as per FR 22B is allowed to the petitioner, on 20.09.2016, at the time of his promotion from the post of Head Clerk (Non-upgraded) Judicial Magistrate Court carrying time scale of pay of Rs.5,000-8,000/- to the upgraded post of Translator carrying the time scale of pay of Rs.5,700-9,200/-.

7.The learned counsel for the petitioner has invited the attention of this Court to the typed set of papers of Page Nos.7 and 8 of the Service Register to show that there is an endorsement to the following effect:

"Fixation of pay in the post of Translator (Head Clerk Judicial Magistrate Court) upgraded to level of Superintendant as per G.O.Ms.No.165 Finance (Pay Cell) Department dated 31.03.2006.

As per G.O.Ms.No.1120 Home (Court 3) Department dated 01.06.1990. As per G.O.Ms.No.416 Home (Court V) Department dated 11.03.1993. As per G.O.Ms.No.165 Finance (Pay Cell) Department dated 31.03.2006.

Thiru.M.Sugumar was formerly act as upgraded



judicial Magistrate Court, Head Clerk cadre as Translator in the special court for P.C.R. Unit. District Judge, Madurai on 23.12.2004 and the individual has got benefit upgraded to the level of superintendant from out of 364 upgraded H.C. Of the G.O.s as per rules."

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8.By relying upon the above endorsement, it is submitted that the petitioner is entitled to re-fixation of pay of his pension as he is one among the persons who was held the post which was upgraded as per G.O.Ms.No.416 dated 11.03.1993.

9.The learned counsel appearing for the first respondent submitted that the Service Register of the petitioner was directed to be forwarded and on perusal of the same, it was found that no specific entry was made in the petitioner's service book. The above referred to endorsement which has been filed in the additional typed set of papers is only typed copy not photostat copy of the Service Register. In any event, the petitioner's service book will not be in his custody but will be in the custody of the department where he lastly functioned and retired from service. The petitioner retired from service while serving in the Sub Court, Uthamapalayam/ second respondent.

10.Thus, considering the limited grievance expressed in the writ petition, we are of the considered view that the following direction would meet the ends of justice.

11.The petitioner is directed to submit a representation to the second respondent clearly stating as to how he is entitled to the benefit and enclose the relevant G.O. as well as a copy of this order. On receipt of the same, the second respondent shall verify the particulars and ascertain from the station where the petitioner was functioning and when the benefit of G.O.Ms.No.416 Home (Court V) Department was implemented. If the post in which the petitioner was functioning is one among 364 posts, which was upgraded vide the said G.O., then the second respondent is directed to make appropriate proposal to the first respondent enclosing the copy of all documents in support of his stand and communicate the same to the first respondent. In any event, if the second respondent finds that the post in which the petitioner was functioning was not one among 364 posts which was upgraded vide G.O.Ms.No.416 Home (Court V) Department, an appropriate reply shall be sent to the petitioner on the petitioner's representation.

12.The above direction shall be complied with within a period of three months from the date of receipt of the petitioner's representation along with a copy of this order. With the above



direction, the writ petition is disposed of. No Costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

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Sub Assistant Registrar

To

1. The Accountant General (Accounts & Entitlement),
361, Anna Salai, Chennai 600 018.

2. The Subordinate Judge,
Uthamapalayam,
Theni District.

+ 1 cc TO Mr.P.Veerabaku , Advocate in SR No. 54157

+ 1 cc TO Mr.P.Gunasekaran , Advocate in SR No. 54064

Mrn

AE/SKN RSK/SAR4/03.04.2018/4P/5C

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