

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.10788 of 2013

V.C.Munusamy
Petitioner

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Vs

1. The Accounts Officer (Pension 10)
Office of the Principal Accountant General
(Accounts & Entitlements)
Tamil Nadu, Chennai-600 018.
 2. Chief Educational Officer
Dharmapuri, Dharmapuri District
- Respondents

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Prayer:- This Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 1st Respondent in his proceedings Pen 10/2/RE/V/4106786/2012-13/ADK dated 20.11.2012 and quash the same and direct the respondents to pay pension at Rs.9045/- per month to the petitioner and confer all the consequential benefits including repayment of withheld amount.

For Petitioner : Mr.P.Ganesan

For M/s.C.S.Associates

For Respondents : Mrs.P.Kavitha,

Government Advocate for R1

& R2

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O R D E R

This Writ Petition has been filed challenging the order passed by the 1st Respondent in his proceedings Pen 10/2/RE/V/4106786/2012-13/ADK dated 20.11.2012 and directing the respondents to pay pension at Rs.9045/- per month to the petitioner and confer all the consequential benefits including repayment of withheld amount.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

3. The Writ Petitioner was initially appointed as Watchman on 18.12.1981 through employment exchange and he was promoted as Cleaner in 1983. Again, the petitioner was promoted as Driver on 18.08.1989 and he was also awarded Selection Grade in August 1999 and Special Grade in August 2009. The petitioner reached superannuation on 31.05.2012 and his pension papers were forwarded for sanction. As per the latest Revised Scale of Pay Rules 2009, the petitioner is eligible for pension at Rs.9045/- per month. But, the respondents have fixed his pension at Rs,8315/- with effect from 01.06.2012. Further, the petitioner was given 5% personal pay in the cadre of Driver from 01.08.1992. The Audit Department has objected the above fixation on the ground that 5% personal pay is not permissible for those persons who were promoted after 27.06.1989. Subsequently, the first respondent has dropped the said audit objection and allowed the petitioner to get 5% personal pay vide letter dated 03.12.2008. The first respondent in the aforesaid letter stated that the Inspection Report were examined in detail and the replies furnished in respect of paragraph 03 of Part II B is accepted and the paragraph is treated as settled. Now, the first respondent has raised objection by referring the Government Letter dated 18.01.1994 and stated that the petitioner is not eligible for 5% from 1.8.1992 and he is eligible for 5% personal pay from 01.09.1998 only. Challenging the impugned order passed by the first respondent dated 20.11.2012, the present writ petition is filed.

4. The learned counsel for the Writ petitioner would submit that the objection made by the first respondent was forwarded to the second respondent and without giving any opportunity or serve communication to the petitioner, the second respondent has denied the benefits to the Writ Petitioner. Therefore, he pleaded before this Court that if the Writ Petitioner is satisfied, appropriate order may be passed in accordance with law.

5. The learned Government Advocate appearing for the respondents would submit that the first respondent has raised objection. The said papers were returned to the second respondent for not accepting 5% of personal pay as already sanctioned by the department in the light of the Government orders. No further action was taken by the second respondent or given an opportunity to the petitioner.

6. In view of the above submissions, this Court is inclined to pass the following order:

i) The second respondent is directed to send a notice to the Writ Petitioner by enclosing the objection made by the first respondent within a period of four weeks from the date of receipt of a copy of this order.

ii) On receipt of the said notice, the Writ Petitioner has to submit his explanation to the second respondent within a period of four weeks, thereafter.

iii) Thereafter, the second respondent shall forward the said explanation submitted by the petitioner along with the objection to the first respondent.

iv) The first respondent is directed to pass orders on merits and in accordance with law, as early as possible more preferably, within a period of six weeks thereafter.

7. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Accounts Officer (Pension 10)
Office of the Principal Accountant General
(Accounts & Entitlements)
Tamil Nadu, Chennai-600 018.

2. The Chief Educational Officer
Dharmapuri, Dharmapuri District

+1 cc to Government Pleader Sr.No. 103142

+1cc to Mr.P.Ganesan , Advocate SR.No. 102698

W.P.No.10788 of 2013

A.SK(24/01/2020)

सत्यमेव जयते

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