

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.2914 of 2019

1.Mrs.P.K.Prabhavathy
2.Mrs.R.Leelamony
3.Mrs.Kalyanikutty
4.Mrs.Annakutty
5.Mrs.M.P.Kali @ Thankam ... Petitioners

Vs

1.Union of India,
Represented by its Secretary- Food,
Ministry of Consumer Affairs,
Food and Public Distribution,
Department of Food and Public Distribution,
Krishi Bhawan,
New Delhi - 110 001.

2.The Director,
Ministry of Consumer Affairs,
Food and Public Distribution,
Department of Food and Public Distribution,
Krishi Bhawan,
New Delhi - 100 001.

3.The Regional Director (Food),
Ministry of Consumer Affairs,
Food and Public Distribution,
Department of Food and Public Distribution,
Officer of the Regional Director (Food),
Southern Region,
No.3, Haddows Road,
Chennai - 600 006.

4.The pay and Accounts Officer,
Ministry of Consumer Affairs,
Food and Public Distribution,
Department of Food and Public Distribution,
Shashtri Bhavan,
Chennai - 600 006. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent bearing F.No.18011/3/2010-FC.3 dated 24.09.2010 in so far as it fixes a period of four weeks' time from the date of publication in newspapers calling for claims/representations for settlement of the terminal benefits payable to retired Food Tansferee's, quash the same and consequently direct the respondents to forthwith release the terminal benefits payable to the petitioner's, being family pensioners subsequent to the death of their respective husbands who were Food Transferees and had opted for terminal benefits admissible to the employees of the Central Government, calculated on the basis of Central Dearness Allowance (CDA) relief as directed by the Hon'ble Supreme Court of India in its Judgment dated 10.02.2010 passed in Civil Appeals Nos.238-44 of 2004 batch of cases reported in 2010(12) SCC 405.

For Petitioners : Mr.K.Manikandan

For Respondents : Mr.C.V.Ramachandramurthy, SPC

O R D E R

The relief sought for in the present writ petition is to quash the order passed by the 2nd respondent proceedings dated 24.09.2010 and direct the respondent to release the terminal benefits payable to the petitioners being family pensioners to the death of their respective husbands who were Food Transferee's and had opted for terminal benefits admissible to the employees of the Central Government, calculated on the basis of Central Dearness Allowance (CDA) relief as directed by the Hon'ble Supreme Court of India in its Judgment dated 10.02.2010 passed in Civil Appeals Nos.238-44 of 2004 batch cases reported in 2010 (12) SCC 405.

2.The issues raised in the present writ petition was already adjudicated by this Court elaborately and a final order was passed in W.P.Nos.35827 to 35856 of 2015 dated 01.10.2018 and the present writ petition is also similarly placed and accordingly they are entitled to get a relief as granted in the batch of writ petitions sited supra and the related paragraphs are extracted hereunder:

"21. This Court is of an opinion that some force in the said contention made by the learned Additional Solicitor General of India, in view of the fact that the Courts are also bound to consider the financial implication of the State while granting

arrears to the employees. It is not as if the Court can grant relief without reference to the financial implications. The Apex Court time and again reiterated that, while granting such retrospective relief, the Courts are bound to consider the financial implications, since the payment of huge arrears from the tax payers money is also a concern to the Government of India. However, in respect of the arguments advanced by the learned Additional Solicitor General of India, regarding the entitlement of the writ petitioner to get the same benefit on a par with the respondents before the Supreme Court, this Court has no hesitation to conclude that such an arguments deserves no merit consideration. In short, the entitlement of the writ petitioners are already concluded by the Apex Court of India. The only ground on which the respondents advanced their arguments are that in respect of notification issued by the Food corporation of India, the petitioners herein had not responded for more than five years.

22. For this submission, the learned counsel appearing for the petitioners states that the writ petitioners had submitted representations repeatedly and the 3rd respondent, evaded implementation of the orders of the Supreme Court by citing some flimsy reasons. Thus, there is no delay on the part of the writ petitioners. This Court is of the considered opinion that the delay cannot be held against these writ petitioners, in view of the fact that the claim before this Court is in relation to the pensionary benefits of the retired employees. The payment of Dearness Allowances and the pensionary benefits are continuous cause to these retired employees and on account of the delay, the benefit cannot be denied to these retired employees. In respect of the pensionary benefits, the Courts are bound to adopt a pragmatic approach and consider the continuous cause arising on account of the fact that the pensions are paid on monthly

basis and therefore, the petitioners are entitled for the same.

23. In view of the discussions made in the above mentioned paragraphs, all the writ petitioners are entitled to get benefits granted by the Hon'ble Supreme Court of India in the case of Union of India & another, Vs. P.N.Natarajan and others reported in 2010 (12) SCC 405."

3. In this view of the matter, the respondents are directed to extend the same to the petitioners herein as directed by this Court in order dated 01.10.2018, in the batch of writ petitions. Thus, the writ petitioners are also entitled for the same order and accordingly the following orders are passed:

1. The writ petitioners are entitled to get the benefit extended to the respondents before the Supreme Court in the case of Union of India & another, Vs. P.N.Natarajan and others reported in 2010 (12) SCC 405. dated 10.02.2010.

2. The respondents herein are directed to revise the Central Dearness Allowance as applicable as per the Rules in force to all the petitioners.

3. The interest in respect of the arrears of Central Dearness Allowances for the differential amount shall be paid with effect from 01.10.2016 onwards.

4. The respondents are directed to calculate the differences, in respect of the Central Dearness Allowances and the arrears to be paid within a period of twelve (12) weeks from the date of receipt of a copy of this order.

5. Accordingly, the writ petitions stand allowed to the extent stated above. However, there shall be no order as to costs. Consequently connected miscellaneous petitions are closed."

4. Accordingly, the Writ Petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

jas/pns

To

- 1.The Secretary- Food,
Union of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
Department of Food and Public
Distribution,
Krishi Bhawan,
New Delhi - 110 001.
- 2.The Director,
Ministry of Consumer Affairs,
Food and Public Distribution,
Department of Food and Public
Distribution,
Krishi Bhawan,
New Delhi - 100 001.
- 3.The Regional Director (Food),
Ministry of Consumer Affairs,
Food and Public Distribution,
Department of Food and Public
Distribution,
Officer of the Regional Director (Food),
Southern Region, No.3, Haddows Road,
Chennai - 600 006.
- 4.The pay and Accounts Officer,
Ministry of Consumer Affairs,
Food and Public Distribution,
Department of Food and Public Distribution,
Shashtri Bhavan,
Chennai - 600 006.

+6cc to Mr.K.Manikandan, Advocate SR.No.38347

+1cc to Mr.C.V.Ramachandramurthy, Advocate SR.No.38533

WEB COPY

W.P.No.2914 of 2019

CP(CO)
GMY(28/06/2019)