IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.A.No.1493 OF 2018

1.The State of Tamil Nadu,
rep. By its Secretary,
Finance Department,
Fort St.George, Chennai 9

2.The Director General of Police,
Chennai 4.

3.The Treasury Officer,
District Treasury Office,
Thanjavur ... Appellants

versus

1.P.Dhakshnamoorthy

2.The Accountant General (A&E)
Accountant General Office,
261, Anna Salai,

Chennai 18 ... Respondents

Appeal filed against the order passed by this Court dated 14.12.2017 in W.P.No.14158 of 2009.

W.P.No.14158 of 2009:

Petition filed under Section under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 3rd Respondent Accountant General dated 25.07.2006 PEN/4/4/9-79-978/PL-85/FP/01-02/260 and quash the same and thereby directing the Accountant General to sanction family Pension to the Petitioner on the death of his son Gnanasambandan and with arrears of pension with interest.

For appellants : Mrs.A.Srijeyanthi,
Special Government Pleader

For Respondents : Mr.A.R.Nixon, for 1st respondent

J U D G M E N T
(made by K.K.SASIDHARAN, J.)

The request made by the first respondent for family pension was rejected on the basis of a Government order passed subsequent to the accrual of right for pensionary benefits. The Writ Petition filed by the first respondent was allowed by the learned Single Judge. The order is under challenge at the instance of the State.

2.The first respondent is the father of Thiru.D.Gnanasambandam, who was in the Tamil Nadu Police Special Service as a police constable. He had put in 1 year 10 months and 16 days of qualifying service in the Tamil Nadu Special Police as on the date on which he died due to cancer on 10 April 2001, leaving his wife and parents as the legal heirs. The mother of the deceased police constable, submitted an application for family pension. The Accountant General issued admissibility report dated 25 February 2002, sanctioning a sum of Rs.26,814/- as death gratuity and a family pension of Rs.1,275/- with effect from 11 April 2001. However, based on the Government Order in G.O.Ms.No.327 Finance (Pension) Department dated 30 August 2001, the Government cancelled the earlier order, resulting in filing the Writ Petition.

3.The learned Single Judge having found that the basis of rejection of the claim for pension was a subsequent Government Order, allowed the Writ Petition.

4.We have heard the learned Special Government Pleader on behalf of the appellants and the learned counsel for the 1st respondent.



5. The factual matrix indicates that son of the first respondent who was working as a police constable, died due to cancer on 10 April 2001. He had put in 1 year 10 months and 16 days of service. He was eligible for pension as per the Government Orders then in force.

6. The application submitted for pension was processed by the Accountant General and family pension of Rs.1,275/- was

sanctioned. The Government passed an order in G.O.Ms.No.327 Finance (Pension) Department dated 30 August 2001, which contain a condition that the income of the nominee should not exceed Rs.2,550/- for making him eligible for pension. Since the monthly income of the first respondent was more than Rs.2,550/-, the claim for pension was rejected.

7. The core issue is as to whether the Government was correct in rejecting the request for pension on the ground that the subsequent Government Order dated 30 August 2001 made the income limit as an eligibility criteria.

8. The employee in the subject case died on 10 April 2001. The first respondent was therefore eligible to receive the pension immediately thereafter. In fact, the Accountant General sanctioned family pension of Rs.1,275/-. It was only thereafter, the Government Order in G.O.Ms. No.327 Finance (Pension) Department dated 30 August 2001 was issued. Since the first respondent accrued a right immediately after the death of his son on 10 April 2001, he was eligible for pension under the then existing Government Orders. The subsequent order dated 30 August 2001 would not apply to the facts of the case. We are therefore of the view that the learned Single Judge was justified in allowing the claim for pension.

9. We direct the appellants to sanction pension to the first respondent forthwith and in any case, on or before 30 April 2019 and report compliance before this Court by 3 May 2019.

10.The intra court appeal is dismissed with the above direction for compliance. No costs. Consequently, connected C.M.P.No.11771 of 2018 is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Accountant General (A&E)
Accountant General Office,
261, Anna Salai,
Chennai 18

2.1.The Secretary,
State of Tamil Nadu,
Finance Department,
Fort St.George, Chennai 9

3.The Director General of Police,
Chennai 4.

4.The Treasury Officer,
District Treasury Office,
Thanjavur.

+1 CC to Mr.A.R.Nixon, Advocate sr 26324.
+1 CC to Govt. Pleader sr 26861.

W.A.No.1493 OF 2018

AK(CO)
SP(07/06/2019)