



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2019

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.NO.33789 OF 2012
AND MP Nos.1,2 OF 2012

A.Thaiivanayagam

... Petitioner

Vs.

1. The Secretary to Government
Health and Family Welfare Department
Fort St.George,
Chennai-600 009.
2. The Director of Medical Education
Kilpauk, Chennai-10.
3. The Dean,
K.A.P.Viswanathan Government,
Medical College,
Trichy.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the 1st respondent in his Letter No.45149/C2/2011-2, dated 05.09.2012 and quash the same and consequently directing the respondents to pass orders by giving notional retrospective Special Grade to the petitioner from the year 1995 to till his retirement dated i.e., 28.02.2007 together with monetary benefits.

For Petitioner : Mr.C.Prakasam

For Respondents: Ms.R.Janaki, AGP for R1 and 2
No appearance for R3

O R D E R

The petitioner was appointed as Assistant Librarian in the Institute of Mental Health, Madras -600010 on 07.05.1975. In the year 1985 as per the orders issued by the 2nd respondent he was



awarded Selection grade pay scale, subsequently the post of Assistant Librarian and Librarian Grade I were merged. In view of that there was some downward revision in the pay scale at that point of time. The recovery order was passed for the excess payment made to him in the previous scale of pay. The same was quashed by this Court in W.P.No.22507 of 2008 dated 08.04.2010 on the ground that the payment was made to the employee not on the basis of his misrepresentation but due to Pay Commission recommendation and revision off pay scale. It appears that the Special Grade scale of pay of the petitioner was revised by Government letter No.5353A/PC/93-1, Finance Department dated 03.02.1996 w.e.f from 01.06.1988. The respondent has taken that as date of grant of Selection grade and refused the claim of the petitioner for Special grade as he has not completed 10 years of service in Selection grade. The said order is under challenge before this Court.

2. Admittedly, the petitioner was appointed on 07.05.1975 and on completion of 10 years of service he was granted Selection Grade in the year 1985 itself. Due to the Pay Commission recommendation as well as revision of pay scales and merger of the posts of Assistant Librarian and Librarian Grade I, there was revision in the pay scales. Consequent upon that there was further revision of Selection Grade pay scale. Only because the Selection Grade pay scale was revised and granted on 01.06.1988 that will not take away the rights of the petitioner to the Special Grade on completion of 20 years of service. Pursuant to the Pay Commission recommendation in G.O.Ms.No.666, Finance (Pay Commission) Department, dated 27.06.1989, one man commission was appointed to remove the anomalies. When a specific query was placed as to whether the Government servants are entitled to Special Grade on completion of 20 years. Even on the basis of Fourth Pay Commission recommendation to remove the anomalies one man commission was appointed to clarify as to whether the Government servants are entitled to Special Grade on completion of 20 years of service even though they have not completed 10 years of service in the Selection Grade. The issue was answered as under:

" 2. The Government after careful consideration direct that employees in the posts provided with Special Grade shall be allowed to move on to the Special Grade on completion of a total minimum period of 20 years of service in the post eventhough 10 years of service in the Selection Grade is not completed."

3. Those who completed 20 years of service after their appointment are entitled to Special Grade. But in the instant case the petitioner was appointed in the year 1975 and was



granted Selection grade scale of pay in the year 1985. When that be so, he has completed 10 years of service and the Selection grade scale of pay. Even otherwise from the date of appointment he has completed more than 20 years before attaining age of superannuation. The petitioner has retired from service on 28.02.2007. In that view of the matter, petitioner is entitled to Special Grade scale of pay and proportionate revision of income and revision in pension. Hence, the impugned order passed by the 1st respondent in his Letter No.45149/C2/2011-2, dated 05.09.2012 is set aside and the petitioner is entitled to Special grade of pay and consequential benefits. Respondents are directed to work out the appropriate dues payable to the petitioner and disburse the same within a period of twelve weeks from the date of receipt of a copy of this order.

4. With the above observation, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Health and Family Welfare Department,
Fort St.George,
Chennai-600 009.
2. The Director of Medical Education,
Kilpauk, Chennai-10.
3. The Dean,
K.A.P.Viswanathan, Government Medical College,
Trichy.

+1cc to Mr.C.Prakasam, Advocate sr.105631
+1cc to the Government Pleader Sr.106252

W.P.NO.33789 OF 2012
&
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srg 21/01/2020