IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2019

CORAM

THE HONOURABLE MR.JUSTICE K.K. SASIDHARAN

AND

THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

Writ Appeal No. 1270 of 2012

A. Rajalakshmi ..Appellant/ Petitioner

Vs.

1. The Accountant General,
Accountant General Office,
Teynampet, Chennai 600 018.

2. The Additional Treasury Officer,
Treasury Office, Cuddalore.
..Respondents/ Respondents

Prayer: Writ Appeal as against the order dated 17.11.2009 in W.P. No. 25210 of 2006.

Prayer in in W.P. No. 25210 of 2006:
Writ Petitions under Article 226 of the Constitution of India praying for issuance of a Writ of Manadamus to direct the Respondent to implemnt the order pased in G.O.Ms.No.31 Finance (pension) Department, dated 2.1.2006 passed in pursuance of the order passed in W.P.No.26277/05 dated 18.8.2005 and consequentially direct the respondents to pay the arrears with interest for delayed payment from the date of the G.O.Ms.No.31 Finance (Pension) Department dated 2.1.2006.

For Appellant :: Mr.A.R. Nixon

For Respondents:: Mr.Vijayashankar for R1
Mrs.A. Srijayanthi
Special Government Pleader
for R2

J U D G M E N T

(Judgment of the Court was delivered by K.K. SASIDHARAN,J.)

The appellant filed the writ petition before the Writ Court in W.P. No. 25210 of 2006 for a direction to implement the order in G.O.Ms. No. 31 Finance (Pension) Department dated 02.01.2006 and consequently to pay the arrears with interest.

2. Before the Writ Court, the learned counsel for the Accountant General made a submission that the pension of the appellant was revised by the order in G.O.Ms. No. 272 Finance (Pension) Department dated 15.06.1998 and the order in G.O.Ms.No.449 Finance (Pension) Department dated 12.10.1999 and as such, nothing survives for adjudication.

3. The learned Single Judge taking into account the submission made on behalf of the 1st respondent dismissed the writ petition as infructuous.

4. The learned counsel for the appellant contended that there was no revision of pension in the case of the appellant in accordance with the order in G.O.Ms. No. 272 Finance (Pension) Department dated 15.06.1998 and the order in G.O.Ms.No.449 Finance (Pension) Department dated 12.10.1999. The learned counsel also contended that the submission made on behalf of the 1st respondent was not correct and as such, the writ petition requires factual adjudication.

5. The learned Single Judge dismissed the writ petition only on account of the submission made on behalf of the 1st respondent. There is nothing on record to show that the pension of the appellant was revised in accordance with the order in G.O.Ms. No. 272 Finance (Pension) Department dated 15.06.1998 and the order in G.O.Ms.No.449 Finance (Pension) Department dated 12.10.1999. Since the appellant maintained that her pension is yet to be revised, we are of the view that the matter requires fresh consideration.

6. We set aside the order dated 17.11.2009 and restore the writ petition in W.P.No.25210 of 2006. We direct the respondents to file counter affidavit taking into account the contention taken by the appellant in the affidavit filed in support of the writ petition. We make

it clear that we have not considered the merits of the claim made by the appellant, and the entire issue should be considered afresh taking into account the counter affidavit filed by the respondents.

7. The intra-court appeal is allowed as indicated above. No costs.

Sd/-
Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

To

1. The Accountant General,
Accountant General Office,
Teynampet, Chennai 600 018.

2. The Additional Treasury Officer,
Treasury Office, Cuddalore.

+1cc to Mr.Vijayashankar , Advocate SR.No. 24261
+1 cc to Government Pleader SR.NO. 24197

W.A. No. 1270 of 2012

BR (CO)
A.SK(22/04/2019)