

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.09.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No. 26432 of 2019

and

W.M.P.Nos. 25791 & 25794 of 2019

Elezebeth Pangujam Palaiah

..Petitioner

Vs

1. The Principal Accountant General,
(Accounts & Entitlements), Tamil Nadu,
361, Anna Salai, Chennai - 600018.

2. The Joint Director of Medical and Rural Health,
Services and Family Welfare,
Virudhunagar, Virudhunagar District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ order or direction in the nature of writ of Mandamus, to call for the records relating to the impugned order of the first respondent in No.P 20/3/120263203/ADK dated 28.11.2018 and the consequential orders of the second respondent in Ref.No. 7538/E3/18 dated 22.01.2019 and Mu.Mu.No. 7538/Ni-3/2018 dated 03.05.2019 and quash the said orders and direct the respondents to restore the pay fixation as existed before the issue of impugned orders and grant him all consequential benefits including payment of DCRG without any recovery and with interest.

For Petitioner : Mr.P.Rajendran

For Respondents : Mr.R.S.Selvam

Government Pleader.

O R D E R

The prayer sought for in this Writ Petition is for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent in No.P 20/3/120263203/ADK dated 28.11.2018 and the consequential orders of the second respondent in Ref.No. 7538/E3/18 dated 22.01.2019 and Mu.Mu.No. 7538/Ni-3/2018 dated 03.05.2019 and quash the said orders and direct the respondents to restore the pay fixation as existed before the issue of impugned orders and grant him all consequential benefits including payment of DCRG without any recovery and with interest.

2. The case of the petitioner is that she retired from service on 31.01.2019 as Audiometrician, Government Headquarters Hospital, Virudhunagar. She was initially appointed in the said post on 27.08.1986. On completion of 10 years of service, she was moved to the Selection Grade on 19.12.1996 and on completion of 20 years of service, she was moved to Special Grade on 19.12.2006. The post of Audiometrician carried the pay scale of Rs.3200-4900 with effect from 01.01.1996. It was revised to Rs.5200-20200 + Grade Pay 1900 with effect from 01.01.2006 under G.O.Ms.No. 234, Finance (Pay Cell) Department, dated 01.06.2009. Thereafter as per the recommendations of the One Man Commission constituted in G.O.Ms.No. 444, Finance (PC) Department, dated 09.09.2009, the pay scale was revised to Rs.5200-20200+Grade Pay 2400 with effect from 01.01.2006 under G.O.Ms.No. 296, Finance (PC) Department dated 26.08.2010. She was moved to the Special Grade scale of pay on completion of 20 years of service on 19.12.2006. In Government Letter No.63305/Pay Cell/2010-1 dated 08.11.2010, the Government issued orders providing for revised Selection Grade and Special Grade scales of pay for employees who were awarded selection grade/special grade prior to 01.01.2006 and in the case of employees who have exercised their option to come over to the revised scales of pay on the date of their award of selection grade/special grade between 01.01.2006 and 31.05.2009, that is, prior to the issue of G.O.Ms.No. 234, Finance (Pay Cell) Department, dated 01.06.2009.

3. The revised selection grade/special grade scales of pay as indicated in Annexure 1 to the said Letter was admissible only in cases where the scales of pay in the ordinary grade post were revised based on the recommendations of the One Man Commission and subsequent Government orders. In the case of Audiometrician, the ordinary grade scale was revised based on the recommendations of the One Man Commission constituted in G.O.Ms.No. 444, Finance (PC) Department, dated 09.09.2009. As per the above said Government Letter dated 08.11.2010, the Selection Grade Scale of pay on 19.12.1996, that is prior to 01.01.2006, her pay was fixed in the revised Selection Grade Scale of Rs.9300-34800 with effect from 01.01.2006 and accordingly her pay was fixed in the Special Grade scale on completion of 20 years of service on 19.12.2006. The Joint Director of Medical and Rural Health Services, Virudhunagar issued an order to this effect in Mu.Mu.No. 5846/Ni-3/10 dated 22.02.2011. She was also paid the arrears of pay consequent on the re-fixation of pay.

4. The learned counsel appearing for the petitioner would submit that on the ground that there was a due of Rs. 9,92,336/- on account of the refixation of the pay scale and an amount of Rs.3,83,694/- was withheld as excess payment and the respondents

issue a direction to pay a sum of Rs. 6,08,642/- as against the impugned order, the present writ petition is filed.

5. The learned counsel appearing for the petitioner would further submit that the amount of Rs.6,08,642/- may be released in favour of the petitioner. This Court may direct the respondents to conduct an enquiry and pass appropriate orders and permit the petitioner to submit her objections within a period of two weeks.

6. This Court permits the petitioner to file her objections within a period of two weeks and thereafter, the respondents are directed to pass appropriate orders after affording an opportunity of personal hearing to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

7. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Accountant General,
(Accounts & Entitlements), Tamil Nadu,
361, Anna Salai, Chennai - 600018.

2. The Joint Director of Medical and Rural Health,
Services and Family Welfare,
Virudhunagar, Virudhunagar District.

+1cc to Government Pleader SR.NO. 78128

W.P.No. 26432 of 2019

sj(co)
nr 16/12/2019