

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.32725 of 2019

R.Kannappan

.. Petitioner

Vs.

1.The Principal Secretary/Commissioner,
Treasury and Accounts Department
Integrated Finance Department Complex,
'Amma Valgam'
Veterinary Hospital Complex,
571, Anna Salai, Nanthanam
Chennai - 600035.

2.The Director,
O/o Directorate of School Education,
DPI Complex, College Road
Chennai - 6.

3.The Regional Accounts Officer (Audit)
School Education Department,
Coimbatore-641001.

4.The Sub Treasury Officer,
Sub Treasury,
Mayiladuthurai - 609 001
Nagapattinam District

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the 1st respondent to consider petitioner's representation dated 22.04.2019 and pass necessary orders for payment of revised pension to petitioner at Rs.10,650/- corresponding to selection grade pay scale applicable to superintendents in the pay scale of Rs.15,600 - 37,400 + Grade Pay Rs.5700/- with effect from 01.08.2010 together with applicable allowances and also for repayment of amount already recovered from petitioner.

For Petitioner : Mr.S.Sounthar
For Respondents : Mr.P.Raja
Government Advocate

O R D E R

The prayer sought for in this Writ Petition is to direct the 1st respondent to consider petitioner's representation dated 22.04.2019 and pass necessary orders for payment of revised pension to petitioner at Rs.10,650/- corresponding to selection grade pay scale applicable to superintendents in the pay scale of Rs.15,600 - 37,400 + Grade Pay Rs.5700/- with effect from 01.08.2010 together with applicable allowances and also for repayment of amount already recovered from petitioner.

2. The case of the petitioner is that he retired as Selection Grade Superintendent on 31.05.1997. Based on G.O.Ms.235 dated 01.06.2009 his pension was revised and refixed at Rs.10,650/- from 01.08.2010 in the pay scale of Rs.15,600 - 37,400 + 5700 (Grade Pay). The petitioner has been drawing the said pension from 01.08.2010 to 28.02.2016. During April 2016, the 4th respondent informed the petitioner that his revised pension had been wrongly fixed and according to audit objection his revised pension should have been restricted to the ordinary scale applicable to the post of PA to DEO which according to audit objection is a promotional post and consequently fixing revised pension corresponding to selection grade pay applicable to Superintendent is wrong. It is the further case of the petitioner, that the Post of PA to DEO is not a promotional post for selection grade Superintendents and hence there is no necessity to restrict revised pension to the level of ordinary grade scale of pay applicable to PA to CEO. Therefore, the petitioner made several representations to the 1st respondent requesting for revised pension. Finally, the petitioner made a representation on 22.04.2019. However, till date the said representation was not considered. Therefore, present Writ Petition has been filed.

3. Mr.S.Sounthar, learned counsel for the petitioner would submit that the 3rd respondent in proceedings dated 14.09.2018 has clearly stated that movement of a person from the post of Superintendent (Tamilnadu Ministerial Service) to the Post of PA to DEO (Tamilnadu General Service) is considered as "appointment by transfer of service" and not as promotion. The learned counsel would further submit that it would be suffice to issue direction to the 1st respondent to consider the representation of the petitioner dated 22.04.2019 in the light of the 3rd respondent's letter dated 14.09.2018, on merits and in accordance with law.

4. Considering the facts and circumstances of the case and the limited request made by the learned counsel for the petitioner, I am inclined to issue direction to the 1st respondent to consider the representation of the petitioner dated 22.04.2019 in the light of the 3rd respondent's letter dated 14.09.2018 within a period of twelve weeks from the date of receipt of a copy of this order.

5. With the above direction, the Writ Petition is disposed of. No costs.

-s/d-

Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

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To

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+1 CC to Mr.S.Sounthar, Advocate sr 97116
+1 CC to Govt. Pleader sr 98040.

W.P.No.32725 of 2019

RR(CO)
SP(23/01/2020)