



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

W.P.(MD)No.2064 of 2018

WEB COPY

A.Sundararaj

... Petitioner

Vs.

1.The Secretary to Government,
School Education Department,
Secretariat, Chennai - 600 009.

2.The Director of School Education,
DPI Complex, Nungambakkam,
Chennai - 600 008.

3.The District Educational Officer,
Ramanathapuram District,
Ramanathapuram.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the first respondent, ie., the Secretary to Government, School Education Department, Chennai, to sanction the petitioner's last increment, which fell due on 01.04.2008 as per the specific provision contained in the FR26(a) Appendix (IX) and as per the positive orders passed in number of writ petitions and to send revised pension proposals to the Accountant General, Chennai, within a specified time frame that may be fixed by this Court.

For Petitioner

: Mr.S.Visvalingam

For Respondents

: Mr.S.Srimathy

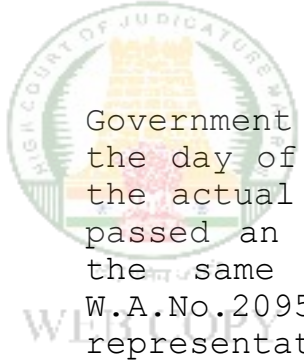
Special Government Pleader

ORDER

Seeking for a direction to the respondents to sanction the petitioner's last increment, which fell due on 01.04.2008, as per the specific provision contained in the FR26(a) Appendix (IX) and to send revised pension proposals to the Accountant General, Chennai, the present writ petition has been filed.

2.Heard the learned Counsel appearing on either side and perused the materials available on record.

3.After superannuation from service, though the petitioner received all his retirement benefits, the last increment, which fell due on 01.04.2008 was not sanctioned to him. The learned Counsel for the petitioner submitted that as per the specific provision contained in FR 269(a) Appendix (ix), the increment of a



Government servant which falls due in a quarter may be sanctioned on the day of the quarter even though he retires from service prior to the actual date of accrual of increment. In this regard, this Court passed an order in W.P.(MD)No.22589 of 2010, dated 03.08.2011 and the same was confirmed by the Honourable Division Bench in W.A.No.2095 of 2011. Hence, the petitioner has made a representation, dated 02.12.2017, in this regard. However, the respondents has not passed any orders on the representation of the petitioner. Hence, the present writ petition.

4.The third respondent has filed a counter affidavit, the relevant portion of which reads as follows:

"6.With regard to the averments contained in Para 5, it is submitted that the G.O.Ms.No.311, provides that a Government servant, whose increment falls due on the day following superannuation, on completion of one full year of service, which are countable for increment under fundamental rule 26 be sanctioned with one notional benefits and not for any other purpose and that the said concession shall take prospective effect from the date of issue of said G.O., ie., 31.12.2014."

5.The above stand taken by the respondents is stoutly refuted by the learned Counsel for the petitioner.

6.Under such facts and circumstances of the case, this Court, without going into the merits of the case, directs the respondents to consider the petitioner's representation, dated 02.12.2017, and pass appropriate orders on merits and in accordance with law and in the light of G.O.Ms.No.21, School Education Department, dated 19.02.2015 and G.O.Ms.No.140, Finance (Pay Cell), Department, dated 25.04.2018, and also in the light of order of this Court in W.P.(MD) No.22589 of 2010, dated 03.08.2011, after affording opportunity of hearing to the petitioner, within a period of six weeks from the date of receipt of a copy of this order.

7.The writ petition is disposed of, with the above direction. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar(CS)



To

1. The Secretary to Government,
School Education Department,
Secretariat, Chennai - 600 009.

2. The Director of School Education,
DPI Complex, Nungambakkam,
Chennai - 600 008.

3. The District Educational Officer,
Ramanathapuram District,
Ramanathapuram.

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-52882[F] dated
11/03/2019)

+1 CC to M/s.SPL GP (SR-53226[F] dated 12/03/2019)

ORDER MADE IN
W.P. (MD) No. 2064 of 2018
11.03.2019

DS/ /SAR- (22.04.2019) 3P 6C