BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **26.09.2019**

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A.(MD).No.980 of 2019

Thiru.B.Alagarsamy ... Appellant/Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by the Secretary to Government,
Finance (Pension) Department,
Chennai 600 009.

2.The Accountant General (A&E)
Tamil Nadu,
361, Anna Salai,
Chennai 600 018.

3.The District Treasury Officer,
Madurai District,
Madurai 625 020. ..Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.(MD).No.2015 of 2015 dated 15.07.2019.

Prayer in WP(MD). 2015 of 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ order or direction in the nature of a Writ of Mandamus directing the respondents to implement the order dated 1.8.06 in WP.(MD).No.11016/05 by revising the pensionary benefits to the petitioner in accordance with G.O.MS.No.272 and 273 Finance (Pension) Department dated 15.6.1998 wherein merger of entire Dearness Allowance as Dearness pay and pay the consequential arrears within a stipulated period.

For Appellant : Mr.B.Alagarsamy(PINP)
For R1 & R3 : Mr.A.Muthukaruppan
Additional Government Pleader
For R2 : Mr.P.Gunasekaran

JUDGMENT

[Judgment of this Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.B.Alagarsamy, appearing in person, Mr.A.Muthukaruppan, learned Additional Government Pleader appearing for the first and the third respondent and Mr.P.Gunasekaran, learned counsel appearing for the second respondent.

2.By consent on either side, the Writ Appeal is taken for disposal.

3.This appeal is filed by the appellant/writ petitioner against the order passed in W.P.(MD).No.2015 of 2015 dated 15.07.2019.

4.The appellant filed the writ petition to direct the respondents to implement the order passed in W.P.(MD).No.11016 of 2005 dated 01.08.2006 and revise his pensionary benefits in accordance with the G.O.Ms.No.272 and 273 Finance (Pension) Department dated 15.06.1998 wherein merger of entire Dearness Allowance as Dearness pay and the appellant seeks pay the consequential payment of arrears.

5.The appellant claims benefit under G.O.Ms.No.272 and 273, dated 15.06.1998. The question as to whether the said Government Order would apply. The Government directed the Dearness Allowances to merge with the Dearness Pay and four Government orders were issued giving benefit to the employees who retired within the cut-off date fixed in those Government Orders. G.O.Ms.No.271 pertains to the employee who had retired after 01.06.1960 till 31.05.1988. G.O.Ms.No.272 is for the employees, who had retired between 01.10.1987 and 30.06.1988. G.O.Ms.No.273 is for the employees, who retired between 02.10.1970 and 31.01.1975. G.O.Ms.No.363 is for the employees, who retired between 01.06.1988 and 31.12.1995. The appellant/writ petitioner attained the age of superannuation and retired from service on 31.07.1983. Therefore, G.O.Ms.No.363 will be applicable.

6.We find that the benefit of G.O.Ms.No.363 was applied and the the revision of pension has been authorized by the second respondent by proceeding dated 01.07.2014. Therefore, the claim of the appellant that the G.O.Ms.Nos.272 and 273 should be applied is incorrect. Therefore, the writ petition is liable to be dismissed. The appellant has pointed out that the third respondent viz, the District Treasury Officer, Madurai, while implementing the revised pension authorisation of the second respondent erroneously fixed the pension, as a result of which, the appellant was paid lesser pension then what he was drawing as on dated 01.01.2006. In this regard, the appellant has drawn our attention to the computation made by the Assistant Treasury Officer. We find that the existing pension as on 01.01.2006 paid to the appellant was Rs.9444 and whereas the third respondent has stated that the pension fixed as per G.O.Ms.No.363 as on 01.01.2001 would be Rs.8440/-. It is not clear as to whether the computation has been rightly arrived at. In any event, this issue has to be considered by the third respondent and for such reason, the relief sought for in the writ petition cannot be granted.

7.In the light of the above, while dismissing the writ appeal, we direct the third respondent to examine the fixation of pension as done by the Assistant Treasury Officer, Madurai in the statement dated 28.07.2014. The third respondent is also directed to issue notice to the petitioner within one week from the date of receipt of a copy of the judgment and hear the petitioner in person, examine the revised pension authorization issued by the second respondent and if there is no error, the same should be rectified or else, the third respondent should pass a speaking order and communicate the same to the appellant. This direction shall be complied with within a period of four weeks from the date on which, the appellant is directed to appear before the third respondent. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To
1.The Secretary to Government,
State of Tamil Nadu, Finance (Pension) Department,
Chennai 600 009.

2.The Accountant General (A&E)
Tamil Nadu, 361, Anna Salai,
Chennai 600 018.

3.The District Treasury Officer,
Madurai District, Madurai 625 020.

+1CC TO MR.B.ALAGARSAMY, Advocate Sr. No.89513
+1CC TO MR.P.GUNASEKARAN, Advocate Sr. No.89666
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 90242

ORDER MADE IN
W.A.(MD).No.980 of 2019
25.09.2019

PM(CO)
TR(24.10.2019) 3P 7C