



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) .No.2123 of 2014

WEB COPY

Prof.V.Narayanasamy,
S/o.N.Venkata Subramaniam,
No.17-B, V.P.K.Street,
S.S.Colony,
Madurai-625 010.

... Petitioner

-Vs-

1.The Union of India,
Represented by its Secretary,
Department of Higher Education,
Ministry of Human Resource Development,
Sasthri Bhavan, New Delhi-110 001.

2.The University Grants Commission,
Represented by its Secretary,
Bahadur Shah Zafar Marg,
New Delhi-110 002.

3.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Department of Higher Education,
Fort St. George, Secretariat,
Chennai-600 009.

4.The Joint Director of Collegiate Education,
Madurai Region, Madurai-20.

5.The Accountant General of Tamil Nadu,
No.300, Anna Salai, Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to revise the pension of the petitioner at Rs.26,695/- per month with effect from 01.01.2006 and disburse the pension arrears to the petitioner.

For Petitioner : Mr.R.Subramanian

For Respondents : No Apperance (for R1)

Mr.B.Vijaykarthikeyan (for R2)

Mr.K.Mu.Muthu

Additional Government Pleader

(for R3 and R4)

Mr.P.Gunasekaran (for R5)



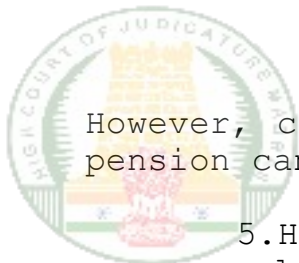
ORDER

The relief sought for in the present writ petition is for a direction to direct the respondents to revise the pension of the petitioner at Rs.26,695/- per month with effect from 01.01.2006 and disburse the pension arrears to the petitioner.

2.The writ petitioner is a retired Grade I Principal from Thiagarajar College (Autonomous), Madurai-9, which is an aided institution. The writ petitioner stated that he served in the College for the period of 35 years and 7 months and accordingly, he is entitled for revision of pension with effect from 01.01.2006. The writ petitioner states that the pension was calculated and paid as per the last drawn pay of the concerned principal. The Government introduced Sixth Pay Commission and fixed the pay of the principals and other teachers, sofar as Grade I Principals retired prior to 01.01.2006, revised pension was not fixed as per the last drawn pay. But the post 01.01.2006 Grade I Principals were given the correct pension based on their last drawn pay, on the ground that the present writ petition is filed on the ground that equals have been equally treated. Thus, the petitioner also must be granted with the revised pension with effect from 01.01.2006.

3.Comparison of monthly pension with the other pensioner is impermissible. Pension is fixed to the employees based on their respective last drawn pay and subsequent Pay Commission are implemented separately for the in service candidates as well as for the retired employees. Pensioners cannot seek the same benefit granted to the in service candidates. This apart, Pay Commission, recommendations are implemented by fixing a cut off date. Such an cut off date can also is a policy and the Court has held that fixing the cut off date is inevitable and there is no illegality in fixing the cut off date for the implementation of the pay commission by the Government. Thus, if at all certain benefits are granted to the employees who retired prior to 01.01.2006 or after 01.01.2006, there cannot be any comparison. This being the principles to be followed, the writ petitioner cannot be compared with juniors for the purpose of stepping up of his pension. Stepping up of pension is undoubtedly, not permissible and stepping up of pay of in service candidates on par with their juniors alone is permissible with reference to Fundamental Rules 22. Therefore, it is possible where a retired employee who retired prior to 01.01.2006 may be getting lesser pension, then that of the person who retired after 01.01.2006. Thus, the parity in pension cannot be claimed in order to stepping up of pension.

4.In respect of the enhancement of pension, the same is periodically granted and the Dearness Allowances are also enhanced to the pensioners as per the Government policy. Thus, the enhancement of pensions are granted periodically to the pensioners.



However, comparison with the other pensioners or to stepping up of pension cannot be done.

5.However, the writ petitioner states that his pension was erroneously fixed and he is eligible for the revision of pension. Under these circumstances, the respondents 3 and 5 are directed to verify the correctness of the pay fixation done to the writ petitioner and in the event of any error or mistake in fixation, then the said error or mistake can be corrected and that the correct pension is applicable to the writ petitioner shall be paid. In this regard, the writ petitioner is also permitted to submit a fresh representation setting out the facts and circumstances. In the event of receiving any such representation, the respondents 3 and 5 are directed to consider the same as expeditiously as possible and ascertain the correctness of the fixation of pension of the writ petitioner.

6.With these observations, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Principal Secretary,
Department of Higher Education,
Fort St. George, Secretariat,
Chennai-600 009.

2.The Joint Director of Collegiate Education,
Madurai Region, Madurai-20.

3.The Accountant General of Tamil Nadu,
No.300, Anna Salai, Chennai.

+1 CC to M/s.B.VIJAY KARTHIKEYAN, Advocate SR-82508.

+1 CC to Mr.R.SUBRAMANIAN, Advocate SR-82603.

+1 CC to SPL GP SR-82857.

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CS(03.09.2019) 3P 7C