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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2020

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.No.15141 OF 2010

Radha Rama Rao

... Petitioner

Vs.

1.The Director of Municipal Administration
Chepauk, Chennai-600 005

2.The Commissioner
Tambaram Municipality
Tambaram
Chennai-600 045

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the 2nd respondent to grant selection grade from 01.10.1978 and pay the difference of enhanced salary and consequently direct the respondents to pay all the benefits including the enhancement of the pension along with 18% interest.

For Petitioner : Mr.P.Nixon

For Respondents: Ms.R.Janaki, AGP for R1
Mr.P.Srinivas, standing counsel
for R2

O R D E R

Petitioner was appointed as Junior Assistant on 26.02.1960 at Ooty Panchayat Union and subsequently her service were transferred to Commissioner Tambaram Municipality. On 01.08.1983, the petitioner submitted her request under voluntary retirement scheme and it was accepted on 24.09.1983. While so, as per recommendation of the third pay commission, Government in G.O.Ms.No.1050 Finance P.C. Dept dated 05.10.1978 introduced selection grade and special grade pay scales. However, it was implemented with effect from 01.10.1978.

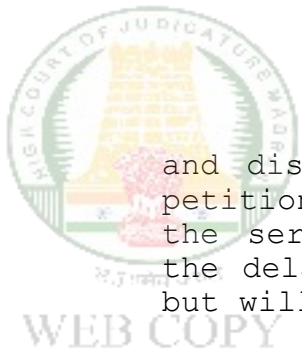


The order was challenged before this Court in W.P.No.754 of 1983, wherein a direction was given to accord selection grade scale of pay to those who have completed 10 years of service as on 01.10.1978. The said judgment was confirmed in W.A.No.1177 of 1991 by the Division Bench and the appeal to Supreme Court was also dismissed on 19.02.1993. The association of the Municipalities Superiors Employees Association, wherein the petitioner is also a member filed a writ petition in W.P.No.1362 of 1992. This Court following the judgment passed in W.P.No.754 of 1983, granted the relief in favour of the employees. Petitioner made a representation for grant of selection grade. Though the respondents accepted her period of service between 26.02.1960 and 23.09.1983, did not grant the relief on the pretext that the Service Register of the petitioner is not available and that she served in two departments, the relevant pay scales, and also the details of leave taken, grant and postponement of increments are required for fixing the appropriate scale of pay.

3. Learned counsel for the respondents would contend that without service register it is impossible for them to grant benefits to the petitioner. The respondents had requested the petitioner to produce the duplicate copy of the same, as she in one of her representation had stated that she is in possession of the same. For calculating the appropriate pay benefits, the total leave taken by her under different heads and the consequential effect of postpone of increment are required. These can be ascertained only from the service register. Unless she produces the same, the benefits cannot be worked out. On this ground prays for dismissal.

4. I have considered the rival submissions.

5. Facts are not disputed. Admittedly the petitioner is entitled to selection grade scale of pay with effect from 01.10.1978. She voluntarily retired from service on 23.09.1983, but her entitlement was finally declared on 01.12.1993 after period of ten years. Obviously there are chances, in one or two cases to misplace the service records. The respondents have duty cast upon them to grant the statutory benefits due to the Government servant within a reasonable time. But it is protracted from the year 1993 for the past 27 years in the pretext that the Service Register is not available and calculation could not be made to fix appropriate scale. Since the service register is missing and the respondents are handicapped from calculating the selection grade of pay, a direction is issued to them to calculate on the basis of the available records, otherwise on par with the benefits provided to her immediate junior, who has joined service after 26.02.1960



and disburse the same. We do take into consideration that the petitioner, inspite of informing that she is in possession of the service register, has not produced it and contributed for the delay. Even now she can produce the same to the respondent, but will not entitle to interest on delayed payment.

6. Writ petition is order in the above terms. The respondents are directed to calculate and disburse the amount entitled to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

To

1.The Director of Municipal Administration
Chepauk, Chennai-600 005

2.The Commissioner
Tambaram Municipality
Tambaram
Chennai-600 045

+1cc to Mr.AR.Nixon, Advocate SR.No.6587

+1cc to Mr.P.Srinivas, Advocate SR.No.6429

+1cc to Government Pleader SR.No.7234

W.P.No.15141 OF 2010

CA(CO)
GMY(10/07/2020)