IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.24071 of 2011

K.Uthirapathy ... Petitioner

vs.

1. The Director of Public Health and
Preventive Medicine,
D.M.S.Compound, Teynampet,
Chennai - 18.

2. The Deputy Director of Health Services,
Tanjore District.

3. The Accountant General of Tamil Nadu,
Teynampet, Chennai - 18. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the Respondents to restore the Special Grade Pay granted to the Father of the Petitioner Late Mr.N.Kaliyaperumal with effect from 19.02.1999 and consequently revise his pay and pension in the revised scales and calculate the arrears amount and pay the same to the Petitioner within the stipulated period.

For Petitioner : Ms.Swadhi Subramaniam

For Respondents 1 & 2: Mr.K.Magesh,
Special Government Pleader,

For 3rd Respondent : Ms.T.S.Selvarani

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O R D E R

Petitioner has come up with this Writ Petition seeking a direction to the Respondents to restore the Special Grade Pay granted to his father, Late N.Kaliyaperumal with effect from 19.02.1999 and for a consequential direction to revise his pay and pension in the revised scales and calculate the arrears amount and pay the same to him, within a stipulated period.

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2. According to the Petitioner, his father Late N.Kaliyaperumal was working as Health Inspector Grade-I in Primary Health Centre, Budalur, Thanjavur District and retired from service on attaining the age of superannuation with effect from 30.11.2003. His father was holding the post of Health Inspector for more than 20 years and accordingly, Special Grade was given to him with effect from 19.02.1999. After a lapse of more than 7 years, there was an Audit objection and his father's Special Grade Pay already granted on 19.02.1999 was unilaterally cancelled and recovery was also imposed.

3. Challenging the same and to restore the Special Grade Pay, the Petitioner's father filed W.P.No.38 of 2007. The said Writ Petition came to be allowed and the impugned order dated 30.05.2006 passed by the 3rd Respondent as regards recovery was quashed and with regard to re-fixation of pension, liberty was granted to the 3rd Respondent to issue notice to the Petitioner and proceed with re-fixation of pension in accordance with law, after considering his objections.

4. Thereafter, one Abdul Jabbar, colleague of the Petitioner's father, filed Writ Petition No.48867 of 2006 seeking similar relief and this Court vide order dated 20.11.2008 allowed the said Writ Petition. Further, one F.Arockiasamy, who was also similarly placed, filed W.P.No.6634 of 2007 and this Court vide order dated 28.01.2009, allowed the said Writ Petition. Hence, according to the Petitioner, on par with the said Abdul Jabbar, his father's colleague, he is entitled to receive arrears and Special Grade Pay.

5. Today, Mr.K.Magesh, learned Special Government Pleader appearing for the Respondents fairly submitted that, persons similarly placed as that of the Petitioner, have been granted benefits sought for by them and hence, according to him, the same yardstick has to be applied to the Petitioner herein.

6. Heard the learned counsel on either side and perused the material documents available on record.

7. For better appreciation, relevant portion of the proceedings dated 02.10.2010 passed by the 3rd Respondent herein as regards grant of pensionary benefits to M.Abdul Jabbar, is extracted hereunder:

> "The pensionary benefits of Shri Abdul Jabbar, M. Health Inspector - D.O.R. 30.06.2006, holder of PPO No.2276064/PH, who is drawing pension from Thanjavur - Sub-treasury Papapnaba have been revised based on revision pay details furnished by the Department. ..."

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8. In view of the above and taking into the account the submissions of the learned Special Government Pleader, this Court directs the Respondents 1 and 2 herein to forward the revised Statement of payment of Arrears as regards the Petitioner's father, to the 3rd Respondent/Accountant General Office, within a period of six weeks from the date of receipt of a copy of this order. On receipt of the same, monetary benefits payable to the Petitioner shall be worked out by the 3rd Respondent and revised payment of arrears shall be extended to the Petitioner and other legal heirs of the Petitioner's father, if any, in proportion, within a period of six weeks.

9. In toto, the entire exercise of payment of arrears to the Petitioner shall be completed within a period of three months from the date of receipt of a copy of this order.

With the above directions and observations, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

(aeb/jas)

To:

1. The Director of Public Health and
Preventive Medicine,
D.M.S.Compound, Teynampet,
Chennai - 18.

2. The Deputy Director of Health Services,
Tanjore District.

3. The Accountant General of Tamil Nadu,
Teynampet, Chennai - 18.

+1 cc to M/s.R.Prem Narayan, Advocate Sr.No. 31116
+1 cc to The Government Pleader, Sr.No. 31157

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VGII(CO)
RMP(06/11/2020)

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