

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.No.3897 of 2020

Dr.M.Madhuri

... Petitioner

-Vs-

1.The Secretary to Government
Health & Family Welfare (A1) Department,
Fort St.George, Chennai-9.

2.The Principal Secretary to Government
Finance (Pay Cell) Department,
Fort St.George, Chennai 9.

3.The Director of Medical Education,
Kilpauk, Chennai-10.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to revise and re-fix the family pension of the petitioner, based on the orders of the Government in G.O.Ms.No.236, Finance (Pay Cell) Department dated 12.07.2018 and draw and disburse the family pension and arrears thereon to the petitioner, in the light of Annexure - I (Form of Application) submitted by the petitioner dated 18.05.2018, within a reasonable time.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.S.Karthikei Balan
Government Advocate

ORDER

This writ petition has been filed for the issue of the writ of Mandamus directing the respondents to revise the pension of the petitioner based on G.O.Ms.No.236, Finance (Pay Cell) Department, dated 12.07.2018 and to draw and disburse the same, in the light of the representation made by the petitioner on 18.05.2018.

2. The case of the petitioner is that her husband was posted as an Assistant Dental Surgeon in the year 1977 in the Government Hospital, Thirupattur . Thereafter, he was promoted as Assistant Reader from 1977. Later, he completed the MDS Course and superannuated from service on 31.01.2003 in the post of Principal. The petitioner's husband died on 29.12.2017 and after his death, the petitioner was drawing the family pension from 01.01.2018 till date.

3. The Government had passed an order where the combined cadre of Associate Professor / Professor is split up into Associate Professor/ Professor and it was re-designated as Senior Civil Surgeon and Chief Civil Surgeon with consequential revision in scale of pay. This Government order was extended to all the officers working in Tamil Nadu Medical Services of all the Directorates. Thereafter, it was given a retrospective effect subject to granting monetary benefits from 23.10.2010.

4. Ultimately, the Government passed an order in G.O.Ms.No.236, Finance (Pay Cell) Department dated 12.07.2018. The relevant portion in the Government Order is extracted hereunder :-

6.The Government after careful consideration has decided to revise the pension /family pension of the Professors / Medical Officers retired prior to the date of issue of Government Order first read above on the basis of the orders issued in the Government orders third and seventh read above with prospective effect considering the financial commitment due to issue of this general orders. Accordingly, Government direct that the Pension /Family Pension of the Professors /Medical Officers (Rs.12,000-16500) retired prior to 23.10.2009 shall be revised with reference to the higher pay scales granted to the Professors who were elevated to Chief Civil Surgeons due to time bound upgradation in the Government Order first read above under clause (2) of Para -5 of Government Order sixth read above with reference to the revised Level 28 of Pay matrix of Rs.123100 - 215900 as against the upgraded pre-revised pay scale of Rs.37,400-67000 + Grade pay Rs.8700 at rs.61,550/- and Rs.36,930 respectively with prospective monetary benefit from 1st July 2018 subject to fullfilling the condition of net qualifying service stipulated for full pension and issue orders accordingly.

7. Based on the above orders, retired Professors / Medical Officers shall apply to the authority in the Department in which the Government employee last served who is competent to process and forward pension proposals to the Accountant General / Pension pay officer/ Treasury Officers concerned in the prescribed form as at Annexure - I of Government order sixth read above in triplicate. The authority concerned shall revise both pension / Family pension of the pensioners / Family pensioners accordingly

8. The competent authority shall verify the net qualifying service and fix the revised pension / Family pension admissible as ordered above and communicate the copy of statement duly approved to the Pension pay officer, Chennai / Treasury Officers/Sub Treasury Officers concerned with a copy to the retired pensioners / Family Pensioners.

9. The Pension Pay officer / Treasury Officers / Sub Treasury Officers shall verify the correctness of the revised pension / Family pension and make payment after making necessary entries in the records in their office.

5. Pursuant to the Government Order, the petitioner has submitted a representation seeking for revision in the family pension. It is also seen from records that the Principal of the Tamil Nadu Government Dental college has forwarded the names of the persons, who have sought for the revision of pension as per the above Government Order to the Pension Pay Office by letter dated 17.10.2018. The petitioner had also made a representation to the respondents in this regard on 18.05.2018. Since the same has not been considered, the petitioner was constrained to approach this Court, seeking for appropriate directions.

6. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

7. Taking into consideration the facts and circumstances of the case and also of the fact that the claim made by the petitioner has to be considered in line with the Government Order that has been mentioned supra and the application made by the petitioner has already been forwarded to the 1st respondent, there shall be a direction to the 1st and 2nd respondents to consider the representation made by the petitioner on 18.05.2018 and pass appropriate orders, in the light of G.O.Ms.No.236, Finance (Pay Cell) Department dated 12.07.2018, within a period of six weeks from the date of receipt of copy of this order. The

petitioner is directed to make a fresh representation to the respondents 1 and 2 along with copy of representation dated 18.05.2018 and also a copy of this order.

8. This writ petition is disposed of with the above directions.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government
Health & Family Welfare (A1) Department,
Fort St.George, Chennai-9.

2.The Principal Secretary to Government
Finance (Pay Cell) Department,
Fort St.George, Chennai 9.

3.The Director of Medical Education,
Kilpauk, Chennai-10.

+1 cc to Mr. M. Muthappan, Advocate, Sr.No. 14702
+1 cc to Government Pleader, Sr.No. 14694

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W.P.No.3897 of 2020

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