IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
24.08.2020	01.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.9385 OF 2013

S.Bhuvaneswari ... Petitioner

- Vs -

1. Government of Tamil Nadu
   rep. By Secretary to Government
   Revenue Department
   Secretariat, Chennai 600 009.

2. The Secretary to Government
   Finance (Pc) Department
   Secretariat, Chennai 600 009.

3. The Principal Secretary/
   Commissioner of Survey & Settlement
   Chepauk, Chennai 600 005. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the 3rd respondent relating to the order in Na.Ka. No.Ra.4/20917/2012(LS) dated 26.9.12, quash the same and issue consequential directions to the respondents to refix the pension of the petitioner as per recommendations of the VI Pay Commission vide G.O. Ms. No.234, Finance (Pay Cell) Department dated 1.6.09 and grant the consequential benefits to the petitioner with interest by deeming her to have retired from service on 1.1.06 and in the light of the judgment dated 2.2.2012 in W.P. No.49577/2006.

For Petitioner : Mr. M.Ravi

For Respondents: Mr. S.Thangavel, Spl. GP

ORDER

The short point that arises for consideration in this writ petition is "Whether the petitioner, who demitted office on attaining the age of superannuation on 31.12.95 is entitled to the benefits conferred upon by the Government on the employees vide G.O. Ms. No.234, Finance

(Pay Cell) Department, dated 1.6.09, with effect from 1.1.06 in implementation of the recommendations of the VI Pay Commission".

2. It is the case of the petitioner that he was permitted by the Addl. Director of Survey and Land Records, by order dated 30.12.05, to retire from service as Superintendent (Selection Grade) on 31.12.95 A.N., on attaining the age of superannuation. It is the case of the petitioner that the Government implemented the recommendations of the VI Pay Commission vide G.O. Ms. No.234, Finance (Pay Cell) Department, dated 1.6.09 with effect from 1.1.06 to all the employees to the exclusion of the petitioner.

3. It is the case of the petitioner that in identical circumstances, a learned single Judge of this Court, following the Full Bench decision of the Central Administrative Tribunal, in respect of a retired employee of Local Fund Audit, had extended the benefit of V Pay Commission. The petitioner, being a similarly placed person and entitled to the said benefit, approached the 3rd respondent by submitting a representation to fix his pension on the basis of the recommendation of the VI Pay Commission in the abovesaid Government Order. It is the further averment of the petitioner that the 3rd respondent, vide the impugned letter, had informed the petitioner that unless the Government considers to implement the said decision to all the persons similarly placed by issuing a Government Order, the representation of the petitioner cannot be positively considered. Hence, left with no other alternative, the present petition has been filed.

4. Learned counsel appearing for the petitioner submitted that an employee, who retires on the last day of the month, is deemed to have ceased from service on and from the next date of attaining superannuation. Learned counsel for the petitioner, drawing the attention of this Court to the decision of the learned single Judge in K.L.Ramamoorthy - Vs - The Secretary to Government, Finance Department (Pension), Secretariat, Chennai (W.P. No.49577/2006 - Dated 2.2.2012), urged this Court that the situation of the petitioner herein is identical and in all fours the said decision is squarely applicable to the case on hand.

5. It is the further submission of the learned counsel for the petitioner that a Division Bench of this Court in the case of P.Ayyamperumal - Vs - The Registrar, Central Administrative Tribunal & Ors. (W.P. No.15731/2017 - Dated 15.09.2017) has held that a person, who has completed one full year and superannuating on the last day of the completion of one year is entitled to get his next increment, which falls on the day next to the date of superannuation of the employee. It is therefore the submission of the learned counsel that the case of the

petitioner being on similar footing, the petitioner is entitled to be given the benefit of the VI Pay Commission and to have his pay and allowances fixed as per the VI Pay Commission and his pension has to be calculated accordingly as per the said pay fixed.

6. Per contra, learned Special Government Pleader appearing for the respondents submitted that the petitioner having superannuated from service on 31.12.95, he is effectively not deemed to be in service on the date when G.O. Ms. No.234 had come into effect and, therefore, the petitioner is not entitled to claim the benefits on par with such of those employees, who are on the rolls of the Government on the crucial date, i.e., 1.1.06. It is the further submission of the learned counsel that the decision in K.L.Ramamoorthy's case (supra) relied on by the petitioner in which the learned single Judge had referred to the Full Bench decision of the Central Administrative Tribunal, has been held to be bad law by various High Courts, including the Full Bench of the Andhra Pradesh High Court and, therefore, the said decision cannot come to the aid of the petitioner in furthering his cause. Equally, it is the submission of the learned Special Government Pleader that the decision in Ayyamperumal's case (supra) cannot also further the case of the petitioner as the issue in the said case related to grant of increment, which has been given to the the petitioner therein, on the ground that he has completed one year on the date when he retired from service.

7. Learned Special Government Pleader drew the attention of this Court to a decision rendered by a learned single Judge of this Court in A.V.Thiyagarajan - Vs - The Secretary to Government (2012 SCC OnLine Mad 4720 :: 2013 (1) MLJ 419), submitted that not only the learned single Judge had not accepted the decision in K.L.Ramamoorthy's case (supra) but has gone on to quote the Division Bench Judgements of this Court as also the decision of the Full Bench of the High Court of Andhra Pradesh and the Division Bench of the High Court of Karnataka and rejected the claim made by the petitioner, which decision is a comprehensive one and is squarely attracted to the case on hand. In fine, it is the submission of the learned Special Government Pleader that but for the decision in K.L.Ramamoorthy's case (supra), all the decisions rendered on the subject issue are against the petitioner and, therefore, the petitioner is not entitled for the relief as sought for.

8. This Court paid its undivided attention to the vociferous contentions advanced by the learned counsel appearing on either side and also perused the materials available on record and also browsed through the various decisions relief on by the respective side in support of their contentions.

9. To have a bird's eye view of the ratio laid down in the various decisions cited by the learned counsel on either side, this Court proceeds to analyse the said decision to come to a definitive conclusion as to the entitlement of the petitioner to the relief sought for.

10. The first of the judgment pressed into service by the learned counsel for the petitioner is K.L.Ramamoorthy's case (supra), where the learned single Judge has held as under :-

> "5. The Government of Tamil Nadu implemented the recommendations of Vth Pay Commission with effect from 01.07.1996. Subsequently, the Government of Tamilnadu, vide G.O.Ms.No.461 Finance (Pension) dated 30.07.1996 directed the fixation of pension be determined on the basis of 50% average emoluments drawn during the last 10 months of service rendered or 50% of the pay last drawn by the Government servant, whichever is higher. This order was made applicable to the Government employees retiring on or after 01.07.1996.
>
> 6. Thereafter, vide G.O.Ms.No.488 Finance (Pension) dated 12.08.1996, it was ordered that at the time of retirement;
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> * * * * * * * *
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> An employee retiring from service on the afternoon of the last day of the month is deemed to be continuing till midnight of that day and accordingly, for all practical and technical purpose, he must be deemed to have ceased from service or to have actually retired from service on and from the next date of attaining superannuation i.e. With effect from the first of the month following the last day of the month of superannuation."
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> 9. Though the writ petition is filed challenging the refusal to grant benefits of the Government orders, on the ground of that the petitioner should be deemed to have been retired on 01.07.1996 therefore, is entitled to benefit as held by Full Bench of the Central Administrative Tribunal. 10 At the time of arguments, the learned counsel for the petitioner also contended that denial of benefits to the person who retired prior to 01.07.1996 and those who retired on the same date and after the date is violative of Article 14 and 16 of the Constitution of India, as it

would amount to creating a class within the class.”

(Emphasis Supplied)

11. The next of the decision on which reliance is placed by the learned counsel for the petitioner relates to Ayyamperumal's case (supra), wherein the Division Bench held as under :-

> “6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep.by its Secretary to Government, Finance Department and others v. M.Balasubramaniam, reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P. No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.
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> 7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs.”

12. From the armory of the respondents, the decision on which reliance is placed relates to A.V.Thiyagarajan's case (supra), which has compositely dealt with all the cases which are tabled before this Court by the respondents in support of their contention. In the above said decision, learned single Judge, taking into account the decision of the Division Bench of this Court in Union of India – Vs – R.Sundara Rajan & Ors. (2009

SCC OnLine Mad 326), in an identical identical factual matrix, has held as under :-

> "4. It is brought to the notice of this court that a division bench of this court headed by P.K. Misra, J. (as he then was) in Union of India, rep by the Principal Accountant General, Tamil Nadu and Pondicherry, Chennai v. R. Sundara Rajan reported in 2009 (4) MLJ 66, had considered an identical question and in paragraph Nos. 12 to 15 and 17 to 19, it was observed as follows:
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> > "12. In another unreported decision of the High Court of Karnataka in Union of India v. Y.N.R. Rao W.P. No. 18186 of 2003 disposed of on 8.12.2003, while dealing with the question of payment of retirement gratuity and a contention regarding applicability of the Rule, which enhanced the maximum amount of gratuity payable, after analysing F.R. 56 and Rule 5 of the Pension Rules, a Division Bench speaking through Justice R.V. Raveendran, as His Lordship then was, observed as follows:-
> >
> > "5. But for the provisions of FR 56, which provides that a Government Servant shall retire from service on the afternoon of last date of the month in which he had attained the age of 58 years, the respondent, who was born on 9-3-1937 would have retired on 8-3-1995. The provision for retirement from service on the afternoon of the last date of the month in which the Government Servant attains the age of retirement instead of on the actual completion of the age of retirement in FR 56 was introduced in the year 1973-74 for accounting and administrative convenience. What is significant is the proviso to clause (a) of FR 56 which provides that an employee whose date of birth is first of a month, shall retire from service on the afternoon of the last date of the preceding month on attaining the age of 58 years. Therefore, if the date of birth of a government servant is 1-4-1937 he would retire from service not on 30-4-1995, but on 31-3-1995. If a person born on 1-4-1937 shall retire on 31-3-1995, it would be illogical to say a person born on 9-3-1937 would retire with effect from 1-4-1995. That would be the effect, if the decision of the

Full Bench of the CAT, Mumbai, is to be accepted. Therefore, a government servant retiring on the afternoon of 31-3-1995 retires on 31-3-1995 and not from 1-4-1995. We hold that the decision of the Full Bench (Mumbai) of the CAT that a government servant retiring on the afternoon of 31st March is to be treated as retiring with effect from the first day of April, that is same as retiring on the forenoon of first of April, is not good law.

6. Rule 5(2) of Pension Rules provides that the day on which a government servant retires from service shall be treated as his last working day. Rule 3(o) defines 'pension' as including gratuity except where the term 'pension' is used in contra-distinction to gratuity. Rule 5(1) provides that any claim for pension (or gratuity) shall be regulated by the provisions of CCS Pension Rules in force at the time when a government servant retires from service. A combined reading of these clauses makes it clear that the date of retirement is the last date of the month in which the Government servant retires and the Retirement Gratuity is to be calculated as per Rules in force on that date. As the respondent retired on 31-3-1995, his entitlement to gratuity will be governed by the Pension Rules as on 31-3-1995. As per Rule 50 as it stood on 31-3-1995, the maximum amount payable as retirement gratuity of Rs. 1,00,000/- and therefore the Department was justified in paying only Rs. 1,00,000/- to the respondent."

13. In our considered opinion, the analysis made by the Full Bench of the Andhra Pradesh High Court and by the Division Bench of the Karnataka High Court with respect is in accord with the relevant provisions and has our unstinted concurrence."

13. On dissection of the decisions referred above, even a cursory glance at the decision in Ayyamperumal's case clearly reveals that before the said Division Bench, the decision in Sundara Rajan's case was not placed before it. Further, no advertance was made by the Division Bench to the decision of the Karnataka High Court to Y.N.R. Rao's case. The Division Bench,

merely referring to a decision passed by another Division Bench, had granted the prayer of grant of annual increment to the petitioner therein, taking into account the fact that the petitioner therein completed one year of service on the day when he attained the age of superannuation and in that view of the matter. The facts of the said case are different from the facts of the present case and the relief sought herein is entirely different and, therefore, this Court is not inclined to dwell any further in the said decision as the said decision is distinguishable not only on facts, but also on law in relation to the facts.

14. Therefore, in the above backdrop, the two cases that are at contra ends, viz., K.L.Ramamoorthy's case and A.V.Thiyagarajan's case are to form the basis for deciding as to the decision which lays down the correct law on the subject issue before this Court.

15. In K.L.Ramamoorthy's case, G.O. Ms. No.461, Finance (Pension) Dept., dated 1.7.96 and G.O. Ms. No.488, Finance (Pension) Dept., dated 12.8.1996, were put in issue by the petitioner therein to contend that Government Orders prescribing a cut-off date 1.7.1996 for making the said Government orders applicable only to such of those persons, who had retired on or after 1.7.1996 is wholly arbitrary and unreasonable and has no nexus with the object to achieve. In the said context, the learned single Judge, referring to a catena of decisions on the fixation of cut-off date held as under :-

> "17. Further, in All India Reserve Bank Retired Officers Association vs. Union of India [1992 Supp. (1) SCC 664], Ahmadi,J., (as he then was) speaking for the Court in the aforesaid decision highlighted the observations in Nakara's case found at p.333 para 46 to the following effect :-
>
> > "...the pension will have to be recomputed in the light of the formula enacted in the liberalised pension scheme and effective from the date the revised scheme comes into force. And beware that it is not a new scheme, it is only a revision of existing scheme. It is not a new retiral benefit. It is an upward revision of an existing benefit. If it was a wholly new concept, a new retiral benefit, one could have appreciated an argument that those who had already retired could not expect it." The Court further observed:- "...It must be realised that in the case of an employee governed

by the CPF (Contributory Provident Fund) scheme his relations with the employer come to an end on his retirement and receipt of the CPF amount but in the case of an employee governed under the pension scheme his relations with the employer merely undergo a change but do not snap altogether. That is the reason why this Court in Nakara case drew a distinction between liberalisation of an existing benefit and introduction of a totally new scheme. In the case of pensioners it is necessary to revise the pension periodically as the continuous fall in the rupee value and the rise in prices of essential commodities necessitates an adjustment of the pension amount but that is not the case of employees governed under the CPF scheme, since they had received the lump sum payment which they were at liberty to invest in a manner that would yield optimum return which would take care of the inflationary trends. This distinction between those belonging to the pension scheme and those belonging to the CPF scheme has been rightly emphasised by this Court in Krishena case."

Same is the position in the present case. As observed in the aforesaid case, in case of an employee governed under the Pension Scheme, relations with the employer merely undergo a change, but are not snapped altogether. There is no new scheme of payment pension, but it is only a revision of the existing pension scheme. Under the new Pension Scheme, pension is required to be paid on the basis of 40 per cent of the average of the last 10 months salary including average dearness allowance drawn by the officer over the last 10 months of his service instead of earlier 40 per cent of the average annual basic salary for the last five years of service immediately preceding the date of retirement."

16. In the above said decision, following the decision of the Hon'ble Supreme Court, it has been unequivocally held that the pensioners fall in a composite class and there cannot be two different class of pensioners. Therefore, prescription of a cut-off date for the purpose of granting benefit to the pensioners by dividing them into two different classes was held

to be wholly impermissible and in that view of the matter, the relief as sought for was granted. Further, it is to be pointed out that the Government Orders, which were put in issue before the learned single Judge therein pertains to the Government Orders issued in respect of the pensioners, viz., G.O. Ms. No.461, Finance (Pension) Dept., dated 31.7.1996 and G.O. Ms. No.488, Finance (Pension) Dept., dated 12.8.1996. Further, what is crucial in the said decision is that the petitioner therein retired on 31.12.95, while the Government Orders prescribed the cut-off date as 1.7.96. In the absence of any nexus with the object to achieve in prescribing the cut-off date, relief was granted to the petitioner therein.

17. In A.V.Thiyagarajan's case, the issue that was raised before the learned single Judge was that though the person therein, like the petitioner in K.L.Ramamoorthy's case attained superannuation on 31.12.95, he should have been deemed to have retired on 1.7.96, the date on which G.O. Ms. No.461, Finance (Pension) Department, dated 31.7.96 came into force and that pensionary benefits should be granted with reference to the said date. In that context, learned single Judge, relying upon the decision in Sundara Rajan's case wherein the decision of the Division Bench of the Karnataka High Court in Y.N.R. Rao's case and the Full Bench decision of the Andhra Pradesh High Court held that the date of retirement of an employee would be the last date of the month in which the Government servant retires, his actual date of birth falling within the said month, and retirement gratuity is to be calculated as per the rules in force on the said date. Further, it has been held that though the date of retirement would be the date preceding the actual birth date of the Government servant, however, for accounting and administrative convenience, the Government servants are allowed to retire on the last date of the month in which the Government servant attains the age of retirement.

18. Though two views emanate from the decisions of two different learned Judges of this Court in K.L.Ramamoorthy's case and A.V.Thiyagarajan's case, however, those views are based on the facts put forth in those cases vis-a-vis the interpretation of law on the basis of the facts and circumstances in those cases, which in the considered opinion of this Court, need not be gone into for the reasons to be stated hereinafter and, therefore, this Court is not taking the aid of either of the decision to arrive at a finding, which does not necessitate this Court to make a reference to a Larger Bench as to the correctness of either of the judgment.

19. The petitioner in the present case has assailed G.O. Ms. No. 234, Finance (Pay Cell) Department, dated 1.6.09. The main plank on which the petitioner has put the above Government

Order in issue is that the petitioner having reached the age of superannuation on 31.12.05, he is deemed to be in service till the end of the day on 31.12.05 and for all practical purposes, he is deemed to have been retired only on 1.1.06 and, therefore, the above Government Order, which prescribes the cut-off date as 1.1.06 would stand applicable to her.

20. Curiously, the whole of the affidavit of the petitioner is silent on the aspect as to her actual date of birth. However, a perusal of the typed set of papers reveal that the Pension Payment Order issued by the Office of the Accountant General reveals that the actual date of birth of the petitioner is 16.12.1947. Therefore, the petitioner, on 15.12.05 is supposed to have completed 58 years of age and on and from 16.12.05, enters the 59th year and, therefore, she ought to have been superannuated on 15.12.05 A.N. However, the Fundamental Rules FR 56 (1) clearly envisages that every Government servant in the superior service shall retire from service on the afternoon of the last day of the month in which he attains the age of fifty-eight years. To put it more precisely, a Government servant, though would have completed 58 years on the day preceding his/her actual date of birth, nevertheless, for accounting and administrative convenience, the Government servant is allowed to superannuate on the last day of the month in which he/she attains the age of 58 years. This effectively means that the day of his actual date of birth, which would be the next day succeeding his retirement, the Government servant would be entering the age of 59 years. In the case on hand, the petitioner, whose date of birth is 16.12.1947, completes the age of 58 years on 15.12.05 and on and from 16.12.05, she enters the age of 59 years and, therefore, technically for all purposes, she ought to have been retired on the day preceding her actual date of birth, viz., 16.12.1947, but only for the limited purpose of accounting and administrative convenience, she has been retained till the end of the month, i.e., 31.12.05. Therefore, she would not be entitled to claim that she be deemed to have retired on 1.1.06 for her to get the benefit that flows from the VI Pay Commission, which was notified by the Government with effect from 1.1.06. The decision and analogy put forth by the Division Bench of Karnataka High Court in Y.N.R. Rao's case would stand squarely attracted to the case on hand.

21. Be that as it may. As already held above, the petitioner, having completed 58 years the day preceding her actual date of birth, viz., 16.12.05, she being relieved from service on the last day of the said month, i.e., 31.12.05, for all practical purposes in view of FR 56 (1), on and from 1.1.06, the petitioner is deemed to be a pensioner. However, technically the petitioner would have stood superannuated from service on and from 16.12.05, but for FR 56 (1), which provides

a yards length advantage to the Government servant to continue till the end of the said month in which they complete 58 years. That being the factual position, the petitioner would technically be a pensioner from 16.12.05 which is put into operation only from 1.1.06 in view of the benevolent provision under FR 56 (1). From the above, it is clear that the on and from 1.1.06, the petitioner would be a pensioner and not a Government servant, she having been allowed to retire and actually retired on 31.12.05.

22. Once the petitioner has superannuated on 31.12.05 and for all purposes is a pensioner on and from 1.1.06, the relief sought for by the petitioner to grant her all consequential pensionary benefits based on G.O. Ms. No.234, Finance (Pay Cell) Department, dated 1.6.09, which came into effect only from 1.1.06, more especially for the employees on the rolls of the State, would not arise and the representation given in the said regard is wholly misconceived.

23. It is to be pointed out that the benefits of the implementation of the recommendations of the VI Pay Commission enures to both to the employees on the rolls of the State as also to pensioners. The Government, while implementing the Pay Commission, issues separate Government Orders for employees on the rolls of the State and the pensioners. The employees on the rolls of the State are covered by G.O. Ms. No.234, Finance (Pay Cell) Department, while the pensioners/family pensioners are covered under G.O. Ms. No.235, Finance (Pay Cell) Department, of even date. The petitioner, having retired from service on 31.12.05, cannot seek implementation of G.O. Ms. No.234, Finance (Pay Cell) Department, when on the date of issuance of the said Government Order, she is a pensioner. The whole attempt on the part of the petitioner to deem her date of retirement as 1.7.06 is only for the purpose of enabling her to get herself fixed in a higher pay scale based on G.O. Ms. No.234 and, thereafter, to get pensionary benefit on and from 1.7.06 on a higher pay scale based on G.O. Ms. No.235, which has been issued for the purpose of pensioners. To put it in a nutshell, the petitioner is trying to have the cake and eat it too, which is nothing but a devious idea to get a higher pensionary benefit by having her salary fixed in a higher pay scale. If the petitioner is allowed to succeed, then it would put the whole administrative machinery in an anomalous situation, in that the petitioner being in service on 1.1.06 to get the benefit of G.O. Ms. No.234, Finance (Pay Cell) Department, which pertains to employees on the rolls of the State as on 1.1.06 and also get the benefit of having her pension fixed in terms with G.O. Ms. No.235, Finance (Pay Cell) Department of even date on and from 1.1.06, the date on which she is a pensioner. In such a backdrop, this Court is of the considered view that the prayer

of the petitioner to have her pay fixed in terms with G.O. Ms. No.234, Finance (Pay Cell) Department dated 1.6.09 with effect from 1.1.06, by deeming her to have retired on 1.1.06, would defeat FR 56 (1) and would be against the whole intent and purpose of insertion of FR 56 (1).

24. Before pronouncement of the order, learned counsel for the petitioner placed heavy reliance on G.O. Ms. No.245, Finance (PGC-I) Department, dated 19.7.18 and submitted that the appeal preferred against the non-implementation of G.O. Ms. No.461, Finance (Pension) Department, dated 31.7.96 before the Hon'ble Apex Court, insofar as persons, who had retired before the cut-off date prescribed in the said Government Order and the Hon'ble Apex Court directed the State to compute and pay the benefits to the pensioners on the basis of the decision in The Principal Secretary to Government, Finance Department - Vs - A.P. Pensioners Samaj & Ors. And, therefore, similar benefit has to be granted to the petitioner herein in line with the directions of the Hon'ble Apex Court.

25. A perusal of the above Government Order reveals that it pertains to the implementation of the V Pay Commission to the pensioners at that point of time in which a cut-off date was fixed making pensioners into two class, which was put in issue before this Court in K.L.Ramamoorthy's case and A.V.Thiyagarajan's case (supra). As this Court has already held that the ratio laid down in the said decisions are on the basis of the facts and circumstances put forth in those cases and this Court having already held that those cases need not be adverted to for the reasons aforesaid, the present Government Order, relied on by the learned counsel for the petitioner would not further the case of the petitioner in any way and at the same time it is to be pointed out that the said Government Order is in no way connected and relevant to the facts of the present case, as the present case falls on a different plane and is not in any way relatable to the facts put forth in K.L.Ramamoorthy's case and A.V.Thiyagarajan's case (supra). Therefore, the reliance placed on the above Government Order does not merit acceptance.

26. Once this Court has come to the conclusion, independently, without taking into consideration the law on the subject in the decisions referred to above, for the reasons aforesaid, this Court has equally no hesitation to hold that the relief sought for by the petitioner to consider her as having superannuated on 1.1.06 is wholly irrational and unsustainable and deserves to be rejected. Pursuant to the rejection of the prayer to treat the petitioner as having superannuated on 1.1.06, the consequential prayer to direct the respondents to refix the pension of the petitioner on the basis of G.O. Ms.

No.234, Finance (Pay Cell) Department, dated 1.6.09 is wholly misconceived and cannot be acceded to.

27. For the reasons aforesaid, no interference is warranted with the proceedings impugned and this writ petition is liable to be dismissed. Accordingly, the same is dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Secretary to Government
   Revenue Department
   Government of Tamil Nadu
   Secretariat, Chennai 600 009.

2. The Secretary to Government
   Finance (Pc) Department
   Secretariat, Chennai 600 009.

3. The Principal Secretary/
   Commissioner of Survey & Settlement
   Chepauk, Chennai 600 005.

W.P. NO. 9385 OF 2013

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srg 06/10/2020