

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATE :03.12.2020
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. NO.23143 of 2014

M.Jaganathan

..Petitioner

- Vs -

1.State of Tamil Nadu, rep. by
its Secretary to Government,
Finance (Pension) Department,
Secretariat, Chennai 600 009.

2.The Accountant General
(Accounts & Entitlements)
Tamil Nadu, Chennai 600 018.

3.The Sub Treasury Officer,
Sankarapuram
Villupuram District.

4.The Joint Director of Agriculture,
Salem, Salem District.

...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 pertaining to the order passed by the 4th respondent in his Proceedings O.Mu.Letter NO. A3/15/2014 dated 06.01.2014 and the proceedings in O.Mu.Lr.No.A3/9880/2014 dated 11.07.2014 and quash the same, and direct the 4th respondent to furnish the details called for by the 3rd respondent in his proceedings Na.Ka.No.157/2014/A dated 14.05.2014 so as to enable the respondents 2 and 3 to fix the enhanced pension of the petitioner and confer all the consequential benefits.

For Petitioner : Mr.C.Selvaraj, Senior counsel
for M/S. C.S.Associates.

For Respondents: Mr.S.Thangavel, Spl.G.P.for R1, 3 & 4
: M/S.J.Sreevidya, AGSC for R2

ORDER

This Writ Petition is filed by the petitioner, to call for the records pertaining to the order passed by the 4th respondent in his Proceedings O.Mu.Letter NO. A3/15/2014 dated 06.01.2014

and the proceedings in O.Mu.Lr.No.A3/9880/2014 dated 11.07.2014 and quash the same, and direct the 4th respondent to furnish the details called for by the 3rd respondent in his proceedings Na.Ka.No.157/2014/A dated 14.05.2014 so as to enable the respondents 2 and 3 to fix the enhanced pension of the petitioner and confer all the consequential benefits.

2.The case of the petitioner is that he was appointed as Field Demonstration Officer on 19.04.1971, and thereafter promoted as Assistant Agricultural Officer in the year 1982. He was awarded Selection Grade in the cadre of Assistant Agricultural Officer in the year 1992 and Special Grade in the year 2002 and his pay was fixed at Rs.5500-175-9000 in the cadre of special Grade Assistant Agricultural Officer from 2002. Thereafter he reached the age of superannuation and he was allowed to retire from service on 30.06.2004 and his pension was fixed at Rs. 6805/- taking into account the scale of pay of Rs.5500-175-9000. In the year 2009, Government issued order in G.O.Ms.No.235, Finance Department, dated 01.06.2009, accepting the recommendation of the VI Pay Commission revising the pension with effect from 01.01.2006 and monetary benefit from 01.01.2007. It is the case of the petitioner that his pension has not been revised in accordance with G.O. Ms. No.235, Finance (Pay Cell) Dept., dated 1.6.09 and his pension ought to have been fixed at Rs.7693/-. Therefore, for refixing the pension and awarding the arrears, the petitioner submitted a representation on 20.03.2014 to the respondents, which has been rejected by the respondent vide the impugned order dated 11.07.2014. Hence, the present writ petition is filed.

3. Learned Senior Counsel appearing for the petitioner submitted that the grievance of the petitioner is that his pension was not revised as per G.O.Ms.No.235, Finance Department, dated 01.06.2009 and as per the Annexure-I to the Government Letter dated 08.11.2020. Though the 3rd respondent passed an order dated 14.05.2014 requesting the petitioner to furnish the service Register, Pay fixation details, pension proposal and certificate of the Pay Disbursing Officer to comply the above requirement he made representation to the 4th respondent requesting to furnish the same, however, even while rejecting the fixation of pension of the petitioner, the 4th respondent has proceeded on the presumption that the petitioner is seeking special grade for two stages, which is not so. As far as the petitioner is concerned, his existing scale of pay was Rs.5500/- for which the corresponding Ordinary grade pay Band is Rs.9300-34800 + Grade Pay Rs.4400/-. Since there was an anomaly, a recommendation was made to the One Man Commission. On the basis of the One Man Commission recommendations, the Government modified the Selection Grade and Special Grade pay in respect of the Ordinary Grade Pay Band. Accordingly the petitioner is

entitled for an enhanced of 50% of the hike in his pension. However the said amount was not paid. Hence this Court may direct the respondents to pay the benefits to which the petitioner is entitled as per the fixation above and release the arrears and pay the revised pension to the petitioner.

4. Per contra, learned Special Government Pleader appearing for the respondents submitted that the writ petitioner has retired from service on 30.06.2004 A.N., and his pension was revised as per the above government order and all the benefits have been drawn and paid to him from 01.01.2007 onwards. Accordingly, he is now getting his revised pension. He further submitted that the government has issued certain clarifications and amendments to G.O. Ms. No.235 vide issuance of Government Letter No.63305/Pay Cell/2010-1 dated 08.11.2010 in which scale of pay of certain categories were revised. However the revision of scale of pay ordered in this government letter are applicable to the employees who are in service only and not for the retired employees. The petitioner has retired from service prior to the date of implementation of the VI Pay Commission and, therefore, the petitioner is entitled only for revision of pension as G.O.Ms.NO.235, Finance, (Pay Cell) Department, dated 01.06.2009 which has been duly given to the petitioner and the other benefits, which flows out of the Government Order for the in-service persons are not applicable to the petitioner. Accordingly he prays for dismissal of the petition.

5.This Court heard the rival submissions made by learned counsel on either side and perused the materials available on record.

6. It is not in dispute that the petitioner retired from service before the implementation of the VI Pay Commission by issuance of G.O. Ms. No.235. Admittedly, the Government has issued G.O.Ms.No.235, Finance (Pay cell) department, dated 01.06.2009, directing grant of the above benefits with notional effect from 1st January 2006 and with monetary benefits from 1st January 2007. In the present case, the petitioner on completion of 10 years of qualifying service in the post of the Assistant Agricultural Officer, was moved to Selection Grade in the said post with effect from 20.08.1992 and on completion of 20 years of qualifying service, was moved to Special Grade with effect form 09.10.2002 and he retired from service in the year 2004. The pay of the petitioner in the selection grade was fixed at Rs.5000-150-8000 with effect form 20.08.1992 and in the Special Grade his pay was fixed at Rs.5500-175-9000 with effect from 09.10.2002 in the pre revised scale of pay that was in existence prior to the acceptance of the VI Pay Commission recommendations.

7. From the above, it is categorically evident that his pay at every stage of his movement up the ladder has been fixed properly and he stood superannuated in the year 2004. It is not disputed by the petitioner that his pay at the time of superannuation was fixed correctly and he was receiving the correct pay. That being the case, the pension of the petitioner pursuant to the VI Pay Commission recommendations has been fixed according to the fitment table provided. Though it is contended by the petitioner that his pay band was not in terms of the Fitment table table in respect of the ordinary grade pay band, however the same is countered by the respondents submitting that the said fitment table is not applicable to all categories of employees, but only for those, who had pay anomaly. It is also the further submission of the respondents that the revision of scale of pay ordered in the government letter is applicable only to the employees who are in service only and not for the retired employees as the pensioners are governed by a Government Order issued in the case of pensioners. The said aspect is not countered by the learned senior counsel for petitioner by placing any material to the contra. It is to be pointed out that once the petitioner is covered under a different Government Order relating to pensioners, the petitioner is not entitled to get the benefits fixed under a Government Order which pertains to persons in service on the date of implementation of the recommendations of the Pay Commission. In such view of the matter, this Court is of the considered view that the relief sought for by the petitioner cannot be acceded to as he is not entitled to the same.

8. For the reasons aforesaid, this writ petition fails and the same is dismissed devoid of merits. However in the said circumstances, there shall be no order as to costs.

Sd/-

Assistant Registrar (C.O.)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
State of Tamil Nadu,
Finance (Pension) Department,
Secretariat, Chennai 600 009.

2. The Accountant General
(Accounts & Entitlements)
Tamil Nadu, Chennai 600 018.

3.The Sub Treasury Officer,
Sankarapuram
Villupuram District.

4.The Joint Director of Agriculture,
Salem, Salem District.

+1cc to M/s.J.Sreevidya, Advocate SR.No.38998
+1cc to M/s.C.S.Associates, SR.No.38991
+1cc to The Government Pleader SR.No.39306

AKM/22.02.21 /5p-8c/

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