



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.16462 of 2014

and

M.P (MD) .No.1 of 2014

K.Thirumalai Veluchamy

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Principal Secretary,
Finance Department,
Secretariat,
Chennai.

2.The State of Tamil Nadu,
Rep by its Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai.

3.The Deputy Director of Health Services,
Sankarankovil,
Thirunelveli District.

... Respondents

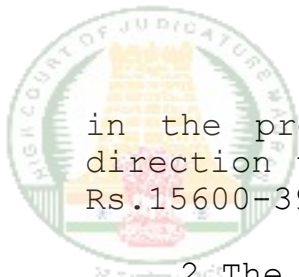
PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the 3rd respondent in his proceedings in R.No.739/A1/14 dated 05.08.2014 (served to the petitioner on 18.09.2014) and quash the same as illegal and consequently, to direct the respondents to revise the pension of the petitioner on the basis of the scale of pay of 15600-39100-5400.

For Petitioner : Mr.H.Mohammed Imran

For Respondents : Mr.C.M.Mari Chelliah Prabhu
Additional Government Pleader

ORDER

The rejection of claim of the petitioner for revision of pay
<https://hcservices.courts.gov.in/hcservices/> Services in the post of Block Health Supervisor, is under challenge



in the present writ petition. The writ petitioner seeks further direction to revise the pension on the basis of the scale of pay of Rs.15600-39100-5400.

2.The writ petitioner was appointed as Health Assistant on 18.09.1968 and he was posted as Health Inspector subsequently by way of re-designation by the Government. The benefit of selection grade and special grade were granted to the writ petitioner in the post of Health Inspector. Subsequently, the petitioner was promoted as Block Health Supervisor on 09.03.1998 and his pay was fixed. The petitioner was allowed to retire from service on 29.02.2004. From 1998 to 2004 for about 6 years, the petitioner was working as a Block Health Supervisor.

3.On retirement, his pension was fixed based on the last pay drawn disbursed to the writ petitioner. The writ petitioner accepted the pension and continue to receive the pension for many years. Suddenly, the petitioner made a representation to revise his pension in the post of Block Health Supervisor and the competent authorities considered the case of the writ petitioner and gave a clear reasoning that the scale of pay of employees of selection grade/special grade should be restricted to their level of the first level and second level promotion posts respectively. As far as the case of the petitioner is concerned, the revision of pay fixation was made in the post of Block Health Supervisor in the revised scale of pay, is higher than that of the first level promotion post. Thus, the pay was restricted and therefore, further revision is impermissible.

4.This Court is of the considered opinion that while granting selection grade or special grade, if the pay is higher than that of the first level promotion cadre, then the pay is to be restricted to the first level promotion cadre. In the present case, the pay of the writ petitioner was restricted to the first level promotion cadre, as per the pay rules in force. The selection grade pay cannot exceed the next level of promotional cadre. This being the rules all along followed, pursuant to the pay rules in force. This Court is of the considered opinion that the petitioner is not entitled to get the revision of pay. This apart, the writ petitioner was allowed to retire from service on 29.02.2004. Thus, his pension was fixed based on last drawn pay. He was receiving pension and all the pensionary benefits were also settled long back, during the year 2004-2005. Thus, the claim raised after a lapse of many years cannot be entertained and such restriction of lapsed claims cannot be granted after having slept over their grievance for decades together and wake-up after a lapse of many years and never be engaged by the Court. This being the principles to be followed, the petitioner has not established any acceptable grounds on merits and therefore, there is a long delay in claiming the benefits. For these reasons, this Writ Petition is devoid of merits and accordingly, the same



stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

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/ /2020

Sub Assistant Registrar(CS)

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To

- 1.The Principal Secretary,
Finance Department,
Secretariat,
Chennai.
- 2.The Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai.
- 3.The Deputy Director of Health Services,
Sankarankovil,
Thirunelveli District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-20605[F] dated 20/10/2020)

W.P. (MD) No.16462 of 2014
16.10.2020

KG (CO)

AP (06/11/2020) 3P 5C