BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).No.18518 of 2014

R.Krishnasamy .. Petitioner

-Vs-

1.The Principal Secretary,
Finance (Pay Cell) Department,
Fort.St.George,
Chennai - 600 009.

2.The Director of Animal Husbandry and
Veterinary Science, Tenampet, Chennai.

3.The Director of Treasuries & Accounts,
Chennai - 600 015.

4.The Director of Pension,
259, Anna Salai, Block III,
2nd Floor, D.M.S. Complex, Chennai.

5.The Assistant Director,
Animal Husbandry, Srivilliputhur,
Virudhunagar District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the firth respondent relating to Mu Mu. No.2195/AA/12, dated 14.08.2014 and quash the same and direct the respondents herein to revise the scale of pay of the petitioner from Rs.6,500 - 10,500/- to Rs.15,600 - 39,100/- plus Grade Pay, Rs.5,400/- notionally for the payment of pension, in the cadre of Live Stock Inspector Grade I (Special Grade), with effect from 01.01.2006 and with monetary benefit from 01.01.2007 on par with other similarly placed counter parts of the petitioner.

For Petitioner : Mr.S.Kadarkarai,

For Respondents : Mr.P.Mahendran,
Additional Government Pleader

ORDER

The relief sought for in the present writ petition is to quash the order dated 14.08.2014 and direct the respondents to revise the scale of pay of the petitioner from Rs.6,500 – 10,500/- to Rs.15,600 – 39,100/- plus Grade Pay, Rs.5,400/- notionally for payment of pension, in the cadre of Live Stock Inspector Grade I (Special Grade), with effect from 01.01.2006 and with monetary benefit from 01.01.2007 on par with other similarly placed counter parts of the petitioner.

2.The writ petitioner filed the writ petition at the age of 73 years and he joined the services of the respondents department on 07.09.1962 and retired from service on 30.04.1999 as Live Stock Inspector Grade I, Special Grade. The pension was fixed based on the last drawn pay of the writ petitioner and revision of pension was also granted. However, the petitioner filed the writ petition on the ground that the revision of pension was granted erroneously and the similarly placed persons were given higher pension, than, that of the pension granted to the writ petitioner.

3.The learned counsel appearing on behalf of the writ petitioner reiterated that when the benefit of G.O.Ms.No.235, Finance (Pay Cell) Department, dated 01.06.2009 as well as the clarification letter, dated 06.10.2009 reveal that the revision of pension is to be extended to the pensioners, the benefit cannot be denied to the writ petitioner.

4.The learned Additional Government Pleader appearing on behalf of the respondents brought to the notice of this Court that with reference to the same post of Live Stock Inspector Grade I, in the Department of Animal Husbandry, the very same issue with reference to G.O.Ms.No.235, Finance (Pay Cell) Department, dated 01.06.2009 was decided by this Court in W.P.(MD)Nos.10538 and 10539 of 2013, dated 18.09.2019 and therefore, the said decision is to be followed in the present case also. The relevant portion of the said order of this Court is extracted hereunder:-

> "*...3.The Government passed an order vide G.O.Ms.No. 235, Finance (Pay Cell), Department, dated 01.06.2009, containing certain recommendations regarding revision of family pension and other pensionary benefits. The impact of G.O.Ms.No.235, dated 01.06.2009, is to the effect that the revised pension should be atleast 50% more than the prescribed scale. In other words, the object of G.O.Ms.No. 235, dated 01.06.2009 is that the fixation of pension should in no case, can be lower than 50% in the minimum pay in the pay band plus grade pay corresponding to the pre-*

revised scale of pay, at which the individual had retired.

4.Subsequently, G.O.Ms.No.235, dated 01.06.2009 was clarified by a letter, dated 08.11.2010 to the effect that in respect of employees, who retired from service prior to 01.01.2006 from Selection Grade/Special Grade post, the pension/family pension shall be refixed with reference to paragraph 2(vi) of G.O.Ms.No.235 by calculating at 50% / 30% of the minimum pay in the pay band+grade pay with effect from 01.01.2006, following the Rules of earlier order.

5.Based on G.O.Ms.No.235 and the clarification letter, the petitioners submitted individual representation, dated 12.04.2013 through first respondent, to the second respondent and requesting to apply G.O.Ms.No.235, dated 01.06.2009 to them. The petitioners' applications were forwarded to the second respondent through first respondent with a recommendation to make payment on revised scale of pay in terms of G.O.Ms.No.235, dated 01.01.2006 and thereafter, the second respondent passed the impugned order, dated 28.05.2013 stating that the revision of pension is not feasible in the case of petitioners. The impugned order is challenged mainly on the ground that it is in violation of G.O.Ms.No.235, dated 01.06.2009.

6.From the facts, it is seen that the petitioners' pension was fixed originally after the retirement with effect from 31.01.2002 and 31.08.2005 respectively.

7.As regards, the petitioner in W.P.(MD)No.10538 of 2013, the pension was fixed as per his last pay drawn, ie., 6,550/-. in the pay scale of 6500-200-10500. It is admitted that the petitioner was drawing pension at the rate of Rs. 3,275/- with effect from 01.02.2002. Subsequently, the pension was revised at Rs.4,038/- with effect from 01.02.2002, based on the authorisation of Accountant General. It was, thereafter, as per 6th Pay Commission, the pay scale was revised. It is admitted that G.O.Ms.No.234 was issued for salary and G.O.Ms.No.235 was issued for pension.

8.As per G.O.Ms.No.234, the pay band of the petitioner was revised. The petitioner was fixed in the pay band of Rs.9,300-34800 with Grade pay of Rs.4,600/-. The petitioner's pension was refixed at the rate of Rs.9,127/-, with effect from 01.01.2006. It is not in dispute that the petitioner was receiving *pension at the rate of Rs.9,127/- per month from 01.01.2006. However, the petitioner has now come forward with the claim that he is entitled to the benefit of G.O.Ms.No.235, dated 01.06.2009.*

9.Though the learned Counsel appearing for the petitioners tried to persuade this Court by referring to different Government Orders, the petitioners are unable to establish that they are entitled to something more as per G.O.Ms.No.235, dated 01.06.2009.

10.This Court examined the position with reference to G.O.Ms.No.235. As per G.O.Ms.No.235, this Court has understood that the Government gives a protection to every pensioners, so that the revision of pension should be atleast 50% above the minimum of basic pay in the revised pay scale + Grade pay. In this case, the petitioner was getting pension revised earlier to Rs.4,838/-. After pay revision, the petitioner was given pension at the rate of Rs.9,127/-. The hike in the revised pension is more than 100%. Revised pension is certainly above 50% of the minimum of the pay in the basic pay + Grade pay (9300+4600). Hence the contention that the petitioner has to be paid more as per G.O.Ms.No.235, has no substance or legal background. The petitioner's revised pension is more than 50%, of the minimum pay in the basic pay plus grade pay of Rs.4,600/- (50% of the same is only Rs.6,950/-). Since the petitioner is receiving Rs.9,127, just more than 50% of the minimum pay in the revised pay band, the benefit of G.O.Ms.No.235 had already been given in favour of the petitioner. In other words, the petitioner is not entitled to any other addition by applying G.O.Ms.No.235.

11.The petitioner in W.P.(MD)No.10539 of 2013 is also drawing the revised pension, which is also above 50% of the pay in the revised pay band + Grade pay, applicable to him. Therefore, in both the cases, the petitioners are not entitled to any further enhancement in the pension based on G.O.Ms.No.235, dated 01.06.2009.

12.In view of the discussion above, there is no merits in these writ petitions. Accordingly, these writ petitions are dismissed and the impugned order passed by the second respondent in these writ petitions, dated 28.05.2013, are confirmed. No costs."

5.In the present case also, the pension to the writ petitioner was fixed as per his last drawn pay and subsequently revision of pension was granted based on the pay commissions.

Thus, the further benefit now sought for with reference to G.O.Ms.No.235, Finance (Pay Cell) Department, dated 01.06.2009 and the subsequent clarification letter, dated 06.10.2009, cannot be granted and consequently, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

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Sub Assistant Registrar(CS)

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To

1.The Principal Secretary,
Finance (Pay Cell) Department,
Fort.St.George, Chennai - 600 009.

2.The Director of Animal Husbandry and
Veterinary Science, Tenampet, Chennai-6.

3.The Director of Treasuries & Accounts,
Chennai - 600 015.

4.The Director of Pension,
259, Anna Salai, Block III,
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5.The Assistant Director,
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