



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2020

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD)No. 7452 of 2015

WEB COPY

P.Thiyagarajan

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Petitioner

Vs.

1.State represented by the
Secretary to the Government,
Revenue Department,
Secretariat,
Chennai - 600 009.

2.The Director of Survey and Settlement,
Survey House,
Chepauk,
Chennai - 600 005.

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Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a ***Writ of Mandamus***, directing the first respondent to provide monetary effect in the pay fixation to the created Super Numerary post of Deputy Surveyor to the petitioner with effect from 04.12.1971 instead of 18.06.2014, the pay drawn verification being made in accordance with the petitioner's Service Register and pay the arrears with interest in the lines of G.O.Ms.No.765 dated 12.08.1997.

For Petitioner	: Mr.S.K.Mani
For Respondents	: Mr.D.Muruganandam, Additional Government Pleader.

O R D E R

The relief sought for in the present writ petition is that directing the first respondent to provide monetary effect in the pay fixation to the created Super Numerary post of Deputy Surveyor to the petitioner with effect from 04.12.1971 instead of 18.06.2014, the pay drawn verification being made in accordance with the petitioner's service register and pay the arrears with interest in the lines of G.O.Ms.No.765 dated 12.08.1997.

2.The petitioner was appointed as Surveyor and subsequently promoted to the post of Deputy Surveyor which was re-designated as Special Inspector of Surveyor. The petitioner was promoted as Head Surveyor which is equivalent to the post of Deputy Inspector of Surveyor. Further promotion to the Inspector of Survey was also granted. The petitioner retired from service



3.The grievance of the writ petitioner is that he must have been promoted to the post of Deputy Surveyor during the year 1971 itself, more specifically with effect from 04.12.1971. Time found promotions were not granted to the numerous persons. These persons aggrieved approached the Tamilu Nadu Administrative Tribunal, by filing original application and subsequently those candidates who approached the Tamilu Nadu Administrative Tribunal were promoted by creating Super Numerary Post as Deputy Surveyor and in this regard, the Government passed an order in G.O.Ms.No.765 dated 12.08.1997. The monetary benefits were given and those persons with effect from 04.12.1971 onwards. Based on the said orders of the Administrative Tribunal and based on G.O.Ms.No.765 dated 12.08.1997, writ petitions were filed subsequently and similar Government Order was issued in G.O.Ms.No.527, dated 12.08.2006 in respect of 104 persons. Even in the said Government Order in G.O.Ms.No.527, the monetary benefits were given with effect from 04.12.1971.

4.The learned counsel for the petitioner strenuously contend that the the petitioner alone cannot be treated differently. The petitioner is also entitled for the monetary benefits with effect from 04.12.1971 as the said benefits were granted initially in the year 1997 in respect of 426 persons and in the year 2006 in respect of 104 persons, who were similarly placed. In this regard, Article 14 of the Constitution of India is to be pressed into service. The petitioner cannot be discriminated at all. Once the benefit is granted to the similarly placed persons, all such similarly placed persons must be treated equally and therefore, the petitioner is entitled to receive monetary benefits from the year 1971 onwards. The learned counsel for the petitioner solicited the attention of this Court with reference to the Government Order passed in G.O.Ms.No.166 (Revenue Department), dated 18.05.2012, wherein the benefits were given from 04.12.1971 onwards. The earlier Government Order issued in G.O.Ms.Nos.765 and 527 were also referred. Thus, the Government had already paid the monetary benefits in retrospective effect to other similarly placed persons.

5.The learned Additional Government Pleader opposed the contention by stating that the petitioner had approached this Court belatedly. The petitioner attained the age of superannuation in the year 2003 and he filed the writ petition in the year 2015. The earlier writ petition filed in the year 2013 was to consider his representation. Pursuant to the order of this Court to consider the representation, the Government issued G.O.Ms.No.264, dated 18.06.2014. The said Government Order clearly states that the petitioner is also entitled to get fixation from 04.12.1971 notionally and the monetary benefits will



be given with effect from the date of Government Order. When the Government Order specifically states that the benefits are extended notionally with effect from 04.12.1971 and the actual monetary benefits are granted from the date of Government Order, the petitioner had accepted the Government Order and the said Government Order issued in G.O.Ms.No.264 is not challenged even in the present writ petition. In the absence of challenging the Government Order issued stating that the monetary benefits are granted with effect from date of the Government Order, the petitioner cannot now seek any direction to grant monetary benefits with effect from 04.12.1971 onwards.

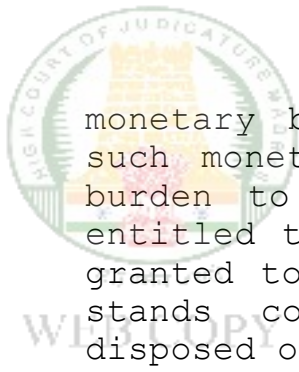
6.The learned Additional Government Pleader further submitted that the petition itself belated. If the Government started giving monetary benefits from the year 1971 to all such similarly placed persons, the financial burden to the Government will be on the higher side and therefore, the Government had taken a decision to grant monetary benefit from the date of issuance of the Government Order. The financial burden of the State exchequer is also to be considered.

7.This Court is of the considered opinion that admittedly the petitioner had retired from service long back. The original application was filed by the petitioner prior to the year 1997 itself and the Government issued orders in G.O.Ms.No.765, dated 12.08.1997 itself in respect of 426 employees, they had approached the Court prior to the year 1997 and order was passed by the Government in the year 1997. The writ petitioner would have been aware of those facts in the year 1997 when they were in service. However, the petitioner had not approached either the authority competent or the Court of Law to extend the the said benefits from 04.12.1971 onwards. Contrarily, the petitioner had waited for long year and even after retirement, he had not taken steps to get the retrospective benefits. First time, he filed the writ petition in the year 2013, after a lapse of many years and pursuant to the direction of this Court to consider the representation, the Government issued G.O.Ms.No.264 dated 18.06.2014 extending the similar benefits to the petitioner with effect from 04.12.1971 notionally and the monetary benefits are granted from the date of issuance of Government Order. Thus, the benefits granted from 04.12.1971 on par with similarly placed persons notionally is in accordance with law. Persons who are approaching belatedly and after many years cannot be considered for the purpose of granting arrears of benefit from the year 1971, in view of the fact that the same would cause financial burden to the State Exchequer. In view of the fact that the petitioner approached the Court after very long period of time, the petitioner is not entitled to retrospective payment of monetary benefits, which would cause financial burden to the Government.



8.This Court is of the considered opinion that every government employee is expected to redress his grievances in the manner known to law within a reasonable period of time. Ignorance of law cannot be a excuse. If a litigant allowed the claim to lapse, thereafter approaching the Court of Law after many years, certainly the same would create lot of other issues. The retrospective promotions are now sought from 04.12.1971 onwards. The writ petitioner retired from service in the year 2003. First time the writ petition is filed in the year 2013. The Government also accepted the grievances of the writ petitioner and passed an order in G.O.Ms.No.264, dated 18.06.2014. The only left out grievance is that the monetary benefits are to be given from 04.12.1971 however, the Government had granted the said benefits notionally from 04.12.1971 and the actual monetary benefits are paid from the date of the Government Order issued on 18.06.2014. Even in the counter, the Government had stated that in the event of granting such retrospective benefits to many number of persons after a lapse of many years, the same would create greater financial burden to Government.

9.The Hon'ble Supreme Court of India repeatedly held that the financial strain of the Government is also be considered by the Courts. In the event of granting retrospective financial benefits after several years to many number of persons, who retired long years back, the same would create financial strain to the Government and therefore, the Courts must be cautious while granting retrospective monetary benefits in such cases, where the litigants are approaching the Court of Law after a lapse of several years. Undoubtedly, equals are to be treated equal. Admittedly, several other persons got the monetary benefits from the year 1971 onwards but those persons approached the Court of Law before the year 1997 and few persons in the year 2006 and the petitioner first time approached after a lapse of many years from the date of retirement. The retired employees asking certain benefits with retrospective effect, if it is encouraged and if the monetary benefits are given with retrospective effect from the year 1971, undoubtedly, the State will suffer monetarily and the State funds and the taxpayers money cannot be granted in such a manner. The petitioner is receiving revised pension and his pension is revised by fixing notional benefits from 04.12.1971. The actual monetary benefits is given from the year 2014. Now the petitioner is receiving pension in the revised pay. Thus, there is no reason to again grant monetary benefits from 04.12.1971 onwards. The benefits granted by the Government in G.O.Ms.No.264, dated 18.06.2014 is not under challenge in the writ petition. Thus, the benefits already granted to the writ petitioner are in accordance with the principles of law and the persons who have approached the Court belatedly now cannot claim the retrospective



monetary benefits from 04.12.1971 and in the event of granting such monetary benefits, the same would create greater financial burden to the Government and therefore, the petitioner is not entitled to get retrospective promotions and the benefits already granted to the writ petitioner in G.O.Ms.No.264, dated 18.06.2014 stands confirmed and accordingly, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar ()

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Sub Assistant Registrar (CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1.The Secretary to the Government,
Revenue Department,
Secretariat,
Chennai - 600 009.

2.The Director of Survey and Settlement,
Survey House,
Chepauk,
Chennai - 600 005.

+1 CC to SGP (SR-23343[F] dated 30/11/2020)

W.P[MD)]No. 7452 of 2015

27.11.2020

ARK (CO)

KM (18.12.2020) 5P 4C