

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2021

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Writ Petition No.41520 of 2005
and
W.M.P.No.44613 of 2005

Pulavar R.Palanisamy ... Petitioner
-Vs-

- 1.State of Tamil Nadu rep.by
Secretary to Government,
Finance (Pension) Department
Fort St.George,
Chennai 600 009.
 - 2.The Principal Accountant General
Anna Salai,
Teynampet, Chennai.
 - 3.The Director of Treasuries and Accounts
DMS Compound,
Chennai - 600 006.
 - 4.The Treasury Officer, Sub-Treasury
Kumbakonam,
Tanjore.
- ... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to extend the benefits of pension/family pension who retired or died after 1.6.1960 by allowing increase of 60% of total pension or family pension after merging D.A.at 608 point for those drawing pension upto Rs.500/- and 50% increase for those drawing pension above Rs.500/- per month in G.O.Ms.No.810 Finance (PC) dated 9.8.1989 to the petitioner with effect from 1.6.1988 with all consequential benefits such as arrears refixation of pension etc.

For Petitioners : Mr.Ramesh Venkatachalapathy

For Respondents : Mrs.K.Bhuvaneswari,
Additional Govt.Pleader -for R1
Mr.V.Vijay Shankar, Standing Counsel
- for RR 2 to 4

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents to extend the benefits of pension/family pension who retired or died after 1.6.1960 by allowing increase of 60% of total pension or family pension after merging D.A. at 608 point for those drawing pension upto Rs.500/- and 50% increase for those drawing pension above Rs.500/- per month in G.O.Ms.No.810 Finance (PC) dated 9.8.1989 to the petitioner with effect from 1.6.1988 with all consequential benefits such as arrears refixation of pension etc.

2. The petitioner was working as a Teacher and retired from service on 31.05.1988 and therefore he was receiving pension from the respondents from 01.06.1988.

3. It is the case of the petitioner that, based on the recommendation of the 5th Pay Commission, the Government issued orders in G.O.Ms.No.810 Finance (PC) dated 9.8.1989, by which the pension was revised including family pension for persons who retired before 1960 by allowing increase of 60% of total pension or family pension after merging D.A. at 608 points for those drawing pension upto Rs.500/- and 50% increase for those drawing pension above Rs.500/- per month.

4. Though the said benefit under G.O.Ms.No.810 Finance (PC) dated 9.8.1989 was extended only to those retired on or before 01.10.1960, several pensioners who retired after the cut-off date, has proceeded to Tamilnadu Administrative Tribunal, where the prayer was allowed, directing the authorities to extend the benefit of G.O.Ms.No.810 Finance (PC) dated 9.8.1989 to all those, who retired after 01.10.1960 also.

5. The matter has become final, as the Government had filed Special Leave Petition unsuccessfully before the Honourable Supreme Court, which was also disposed as early as on 01.12.1997.

6. Following the law having been declared, those who retired after 01.10.1960 also would become eligible to get the benefit extended under G.O.Ms.No.810 referred to above and accordingly several persons have approached this Court at various point of time.

7. In this context, it is to be noted that even though the Honourable Supreme Court, in the order referred to above, observed that those who are entitled to get similar benefits need not be driven to approach this Court individually because they are pensioners, the said benefit of G.O.Ms.No.810 has not been extended to several persons including the petitioner and therefore, in order to get his grievance redressed and to get the benefit of revised pension, the petitioner has approached this Court by filing this writ petition with the aforesaid prayer.

8. Heard Mr.Ramesh Venkatachalapathy, learned counsel for the petitioner, who has reiterated the aforesaid facts and would submit that, several thousands of retired employees who retired after the cut-off date of 01.10.1960 since could not get the benefits, they approached this Court and those who approached this Court got the orders, by which the said benefit under the relevant G.O., had been extended, thereby they all got the revised pension. However, this gesture has not been shown to the petitioner and therefore, he filed the present writ petition to get the revised pension as per the G.O.

9. On the other hand, Mrs.K.Bhuvaneswari, learned Additional Government Pleader appearing for the first respondent would submit that, insofar as the claim of the petitioner is concerned, if he is entitled to get the revised pension as per the benefit conferred under the said G.O., that has to be decided only by the other respondents ie., respondents 2, 3 and 4 and if at all any direction is issued, it can be issued to the other respondents to consider the claim of the petitioner, if he is otherwise eligible and entitled to get the revised pension.

10. However, Mr.Vijay Shankar, learned Standing Counsel for the respondents 2 to 4 would submit that, no fresh decision can be taken by the second and third respondents and in this regard, if at all the petitioner is entitled to get the revised pension as per the benefit conferred under the relevant G.O., he shall be entitled to get the same, provided the petitioner shall approach the fourth respondent with a request and once such a request is given, the Treasury Officer, ie., the fourth respondent being the disbursing authority, would consider the claim of the petitioner and accordingly, if the petitioner is entitled to get the revised pension, that would be calculated and paid to the petitioner.

11. I have considered the submissions made by the learned counsel appearing for both sides and have perused the materials placed on record.

12. The facts with regard to the service of the petitioner rendered upto 31.05.1988 till his superannuation and from 01.06.1988 he is receiving pension, is not in dispute. Though the benefit conferred under G.O.Ms.No.810 Finance (PC) dated 9.8.1989 has been extended for those who retired from service prior to 01.10.1960, it has not been initially conferred to those who retired after the said cut-off date.

13. However, subsequently, plethora of decisions have come, where the benefit conferred under G.O.Ms.No.810 was directed to be extended to those who retired after the cut-off date also and therefore, as rightly pointed out by the learned counsel for the petitioner, several thousands of such employees who retired after the cut off date are receiving the

revised pension.

14. When that being so, the same benefit can very well be extended to the petitioner herein. In this context, number of orders have been passed and one such order passed in W.P.No.8548 of 2005 dated 09.09.2005 has been relied upon by the learned counsel for the petitioner, where the learned Judge has observed as under:

"2. Learned counsel for the petitioner as well as the learned Additional Government Pleader admit that in an identical set of facts in respect of 18 persons, the First Bench of this Court, by order dated 25.03.2004 made in W.P.No.15473 of 1999, granted the benefit as prayed for that order has been faithfully complied with by the respondent by issuance of G.O.Ms.No.504 Finance (Pension) Department dated 21.09.2004. The petitioners are also similarly placed and a similar order can be passed in this writ petition also.

3. Having regard to the facts of this case and having regard to the submissions made by the learned counsel on either side, after perusing the order dated 25.03.2004, the writ petition is allowed following the order dated 25.3.2004 in WP No.15473 of 1999 and there will be a direction to the respondent to extend the same benefits to the petitioners as extended by the Tribunal by judgment dated 06.05.1996 in O.A.N.1919 of 19991. This exercise shall be done within a period of three months from the date of receipt of a copy of this order. No costs."

15. Since the issue has already been decided and number of orders have been passed, where the employees retired after the cut off date were also extended the benefit under the relevant G.O.Ms.No.810 referred to above, this Court feels that, this petitioner is also entitled to get such benefit and therefore this Court is inclined to pass the following order.

16. That there shall be a direction to the fourth respondent to consider the claim of the petitioner for extending the benefit of revised pension as provided under the relevant G.O.Ms.No.810 dated 09.08.1989 and accordingly the petitioner's pay shall be revised and revised pension with arrears shall be paid to the petitioner. The needful as indicated above shall be undertaken by the respondents within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that, in this regard if the fourth respondent wants any further input from the petitioner, the same can very well be communicated by giving a notice to him within the shortest possible time and on receipt of the same, the needful shall be done within a outer limit of three months, within which the revised pension, after having been

calculated, be disbursed to the petitioner.

17. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

KST

To

1. The Secretary to Government,
Finance (Pension) Department
Fort St.George, Chennai 600 009.
- 2.The Principal Accountant General
Anna Salai, Teynampet, Chennai.
- 3.The Director of Treasuries and Accounts
DMS Compound, Chennai - 600 006.
- 4.The Treasury Officer, Sub-Treasury
Kumbakonam, Tanjore.

+lcc to Mr.M.Sriram, Advocate, S.R.No. 17349
+lcc to the Government Pleader, S.R.No. 17597

W.P.No.41520 of 2005

PMK (CO)
GN (09/04/2021)

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