

IN The HIGH COURT OF JUDICATURE AT MADRAS
DATED: 02.03.2021

CORAM:

The HONOURABLE MR.JUSTICE S.VAIDYANATHAN
W.P.No.4878 of 2021

M.Balasubramanian

... Petitioner

-vs-

1.The Secretary to Government,
Government of Tamil Nadu,
Finance Department,
Secretariat,
St. George Fort,
Chennai-600 009.

2.The Accountant General (A&E),
361, Anna Salai,
Chennai - 600 018.

3.The Director,
Treasuries and Accounts Department,
Chennai - 600 035.

4.The Principal Resident Commissioner,
Tamil Nadu House,
New Delhi - 21.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the first respondent to consider the detailed representation submitted by the petitioner dated 21.10.2020 by including 20% of his revised basic pay as special pay in the revised pay scale and settle his pension and other retirement benefits within a reasonable time as this Court deem fit.

For Petitioner : Mr.G.Sudangan

For Respondents: Mr.R.A.S.Senthilvel, for R1, R3 &
R4
Additional Government Pleader

for R2

: Mr.V.Vijayshankar

O R D E R

This Writ petition is filed, seeking a direction to the

first respondent to consider the detailed representation submitted by the petitioner dated 21.10.2020 by including 20% of his revised basic pay as special pay in the revised pay scale and settle his pension and other retirement benefits within a reasonable time.

2. Mr.R.A.S.Senthilvel, learned Additional Government Pleader takes notice for respondents 1, 3 and 4 and Mr.V.Vijayshankar, learned counsel takes notice for the second respondent. By consent, the Writ Petition is taken up for final disposal at the admission stage.

3. It is the case of the petitioner that he was working as an Accounts Officer under the control of the third respondent and he was sent on deputation to the Tamil Nadu House, New Delhi by an order dated 08.06.2015, passed by the third respondent. After serving in Tamil Nadu House, New Delhi, he retired from service on attaining the age of superannuation on 30.06.2016. According to the petitioner, while the employees, who have been retired upto 31.12.2015, were enjoying the benefit of 20% of special pay and the employees, who have been retired after 01.10.2017 were enjoying the benefit of 20% of the basic pay in their pay scale for the purpose of pension calculation, the petitioner has not been extended the said benefit, since the special pay of employees working in Tamil Nadu house was reduced to 10% of basic pay as special pay pursuant to the G.O.Ms.No.304, finance Department, dated 13.10.2017. However, it was again raised to 20% with effect from 01.10.2017 pursuant to G.O.Ms.No.409, Finance Department, dated 24.12.2018. Therefore, according to the petitioner, he is entitled for special pay of 20% of his basic pay and the same will be taken into account for the purpose of calculation of pension and other retirement benefits. In this regard, the petitioner made a representation dated 06.01.2020 to the first respondent, followed by a reminder dated 21.10.2020. As there was no response from him, the petitioner is before this Court by filing the present Writ Petition, seeking the aforesaid relief.

4. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the first respondent, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the first respondent herein to consider the representations preferred by the petitioner dated 06.01.2020 and 21.10.2020, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 120 days from the

date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the first respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representations dated 06.01.2020 and 21.10.2020 and this order, to the first respondent forthwith;

v) The first respondent is directed to communicate the decision taken on the representation to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vum

To

1.

1.The Secretary to Government,
Government of Tamil Nadu,
Finance Department,
Secretariat,

St. George Fort,
Chennai-600 009.

2.The Accountant General (A&E),
361, Anna Salai,
Chennai - 600 018.

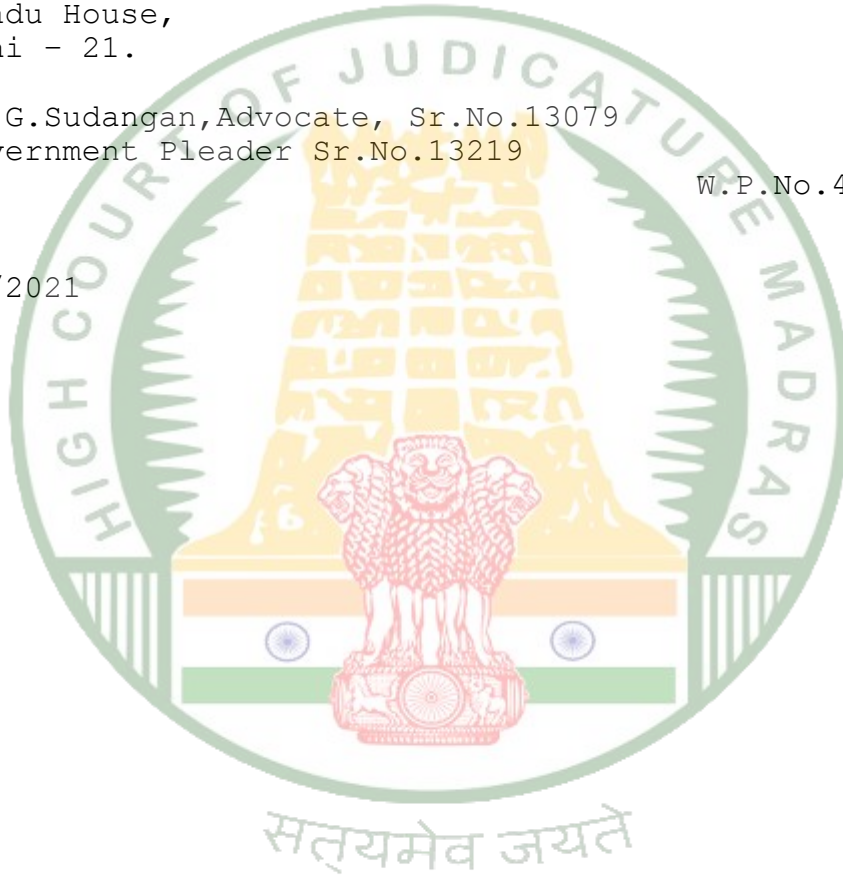
3.The Director,
Treasuries and Accounts Department,
Chennai - 600 035.

4.The Principal Resident Commissioner,
Tamil Nadu House,
New Delhi - 21.

+cc to Mr.G.Sudangan, Advocate, Sr.No.13079
+cc to Government Pleader Sr.No.13219

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GPL(CO)
baf 05/05/2021



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