



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.1291 of 2011

M.Krishnan

... Petitioner/Appellant

Vs.

1.The Director of Agriculture,
Chepauk,
Chennai.

2.The Additional Director of Agriculture,
Office of the Commissioner of Agriculture,
Chepauk,
Chennai - 5.

3.The Joint Director of Agriculture,
Office of the Joint Director of Agriculture,
Madurai -2.

... Respondents / Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 19.11.2010 passed in W.P(MD)No.13762 of 2010.

Prayer in WP(MD). 13762/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of WRIT OF CERTIORARIIFIED MANDAMUS, to call for records pertaining to the Impugned Order in PaNe/18366/2008 dated 26.04.2010 on the file of the Respondent No.3 and quash the same as illegal and consequently directing the Respondents to refix the Petitioner Pension as per the VIth Pay Commission Report Letter No.63305/Pay Cell/2010-2 dated 08-11-2010.

For Appellant

: Mr.T.Lajapathi Roy

For Respondents

: Mr.K.P.Narayanakumar,
Special Government Pleader



JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

The Writ Appeal is directed against the order dated 19.11.2010 passed in W.P(MD)No.13762 of 2010, which was filed to quash the order passed by the third respondent and to re-fix the petitioner's pension as per the VIth Pay Commission report.

2. The Appellant/writ petitioner retired as an Assistant Seed Officer. He had joined service as Assistant Agriculture Officer on 06.09.1965. After completion of 10 years of service, he was provided Selection Grade status with effect from 01.06.1988. It is stated that he was eligible to attain Special Grade status in the year 1998. Since the same was not awarded as per G.O.(Ms) No.666 Finance (Pay Commission) Department, dated 27.06.1989, he had preferred several representations before the 2nd and 3rd respondents.

3. According to the writ petitioner, G.O.(Ms) No.304, Finance (Pay Commission) Department, dated 28.03.1990, enabled those who were promoted prior to 01.06.1998 to be awarded the Special Grade. Similarly, G.O.(Ms) No.590, Finance (Pay Commission) Department, dated 01.08.1992, enabled those persons who were wrongly fixed with lower pay to claim the Special Grade pay with effect from 27.06.1989. The representations sent by writ petitioner based on the above Government Orders were not considered and the 3rd respondent had passed the order impugned in the Writ petition dated 26.04.2010 holding that the writ petitioner was not eligible for the re-fixation of pension as claimed by him.

4. It is to be noted that the appellant retired from service on 31.07.1999 as per Voluntary Retirement Scheme and he had been granted with all monetary benefits for which he was eligible while he was in service. The impugned order has specifically provided Special Grade with effect from 01.06.1988 for those who moved to Selection Grade/Special Grade prior to 27.06.1989 and for others it took effect from 27.06.1989. The Appellant was originally appointed in the Feeder post in the year 1965. After completion of 10 years, he was moved to Selection Grade post on 01.06.1988. Thereafter, he was promoted to the next higher post as Assistant Seed Officer on 19.01.1987. Even before the Special Grade came into effect on 27.06.1989, the Appellant was promoted as Assistant Seed Officer in the year 1987, i.e., before the date on which he was eligible to move to Special Grade, when he was continued in the feeder post of Assistant Agriculture Officer.

5. The Government had specifically codified and ordered that those who were already moved either to Selection Grade or Special



Grade prior to 27.06.1989, would be allowed to have this and for others, Special Grade is admissible only from 27.06.1989. The Appellant worked in the higher post of Assistant Seed Officer between 01.06.1988 and 27.06.1989. Therefore, there was no revision of pay and his pay was already re-fixed in the Special Grade post on 27.06.1989. Further, the Appellant prayed for grant of 5% of basic pay, which was also not permissible as it was allowed to certain categories of employees based on the pre-revised and revised pay-scales.

6. It is also relevant to note that the normal date of superannuation of the appellant was on 30.06.2000, whereas he retired from service voluntarily on 31.07.1999, prior to crucial date of increment, which actually falls due on 01.10.1999. Thus, Writ Appellant has exhausted all the remedies and was informed that he was ineligible for any re-fixation of pension.

7. Though it was argued that the appellant had sent representations prior to his retirement, the same were not produced. The Appellant had kept quiet during his entire service period and also accepted his terminal benefits without seeking any legal remedy. Therefore, the learned Single Judge had rightly dismissed the Writ Petition as the impugned order passed by third respondent itself was self-explanatory. The Writ Petition was also dismissed on the grounds of delay and laches based on the decision of the Honourable Supreme Court in the case of **C. Jacob vs. Director of Geology & Mining** reported in **2006 AIR SCW 7233**.

8. In the light of the above, there is no reason to interfere in the order passed by the learned Single Judge and the same is confirmed.

9. In the result, the Writ Appeal is dismissed. No Costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

pm



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 Director of Agriculture,
Chepauk, Chennai.
- 2.The Additional Director of Agriculture,
Office of the Commissioner of Agriculture,
Chepauk, Chennai - 5.
- 3.The Joint Director of Agriculture,
Office of the Joint Director of Agriculture,
Madurai -2.

+1 CC to Mr.T.LAJAPATHI ROY, Advocate (SR-4328[F] dated 10/02/2021)

**Judgment in
W.A (MD) No.1291 of 2011
09.02.2021**

KM (24.02.2021) 4P 5C