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W.P.No.22779 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.22779 of 2017

G.Kaliyaperumal

...Petitioner

Vs.

1.The Superintending Engineer,
Public Works Department,
Water Resource Department,
East Kaveri,
Thanjavur.

2.The Chief Engineer,
Public Works Department,
Trichy Zone,
Trichy.

3.The Assistant Executive Engineer,
Vennar Sub-Division,
Tiruvarur.

4.Principal Accountant General,
Office of the PAG (Accounts and Entitlements)
Tamil Nadu,
361, Anna Salai,
Chennai – 10.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India,



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to issue a Writ of Mandamus, directing the 4th respondent to give effect to the pay raise given to the petitioner's basic pay at the rate of 5% of the basic pay in the 5th and 6th pay commission and bonus salary on completion of 30 years while computing revised pension payable to the petitioner within the stipulated time prescribed by this Honourable Court pursuant to the representation dated 17.08.2017.

For Petitioner	: Mr.T.Muruganantham
For R1 to R3	: Mrs.C.Sangamithirai Special Government Pleader
For R4	: Mr.V.Murali

ORDER

The relief sought for in the present writ petition is for a direction to direct the 4th respondent to give effect to the pay raise given to the petitioner's basic pay at the rate of 5% of the basic pay in the 5th and 6th pay commission and bonus salary on completion of 30 years while computing revised pension payable to the petitioner within the stipulated time prescribed by this Honourable Court pursuant to the representation dated 17.08.2017.

2. The petitioner states that he was appointed as Special Maistry on



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07.04.1971 in the Special Building Division, Thiruvavur and the designation of the post was changed as Irrigation Inspector. He retired from service on 30.11.2010.

3. The grievance of the writ petitioner is that 5% personal pay granted to rectify pay anomaly by the 5th Pay Commission was not extended to him. In this regard, the Government issued G.O.Ms.No.664, Finance Department dated 24.08.1992 and the said benefit of 5% personal pay granted was not extended to the writ petitioner during the relevant point of time and therefore, the writ petitioner has chosen to file the present writ petition.

4. The 5th Pay Commission was implemented with effect from 01.06.1988. Based on the recommendations of one man Commission and with a view to rectify the pay anomaly to certain categories, the 5% personal pay was granted by the Government in G.O.Ms.No.664, Finance Department dated 24.08.1992.

5. In this regard, the respondents have filed a counter by stating that



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the salary of the writ petitioner was re-fixed with effect from 01.10.1986 vide letter dated 23.07.2014 of Superintending Engineer, P.W.D., Thanjavur and his salary was revised vide letter dated 17.03.2015 and the said proposal was sent to the Principal Accountant General, Chennai, the 4th respondent herein for approval, but the 4th respondent in his reply dated 15.07.2016, intimated that the 5% Personal Pay granted for the years 1992 and 1998 to the petitioner is wrong and therefore, the proposal sent by the respondent was withdrawn. But, as per G.O.Ms.No.237 dated 22.07.2013, it has been sanctioned that petitioner is eligible for 5% personal pay for the years 1992 and 1998 and 3% bonus increment from the day of completion of 30 years of service. Therefore, revised pay order has been issued and the said proposal was sent to the Principal Accountant General, Chennai, the 4th respondent herein for approval vide Proceedings Letter No.10/2017 dated 11.05.2016, but the said proposal has been again returned by the 4th respondent vide his letter dated 08.07.2016 and he noted the reason as follows:

“As per GO.664 dated 24.08.1992, GO.497 dated 28.08.1998, 5% PP for Irrigation Inspector is not admissible. This may be examined.”



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6. The above said rejection letter of the 4th respondent has been communicated to the petitioner also. Even then, the petitioner has filed this writ petition without challenging the above said rejection letter dated 08.07.2016 of the 4th respondent herein. Therefore, his writ petition is not maintainable without challenging the rejection letter dated 08.07.2016 of the 4th respondent and hence, liable to be dismissed.

7. In view of the fact that the petitioner is not falling under the 4 categories, to which, the 5% personal pay was granted and further, he has not challenged the order of rejection during the relevant point of time, the writ petition now filed after a lapse of about 7 years from the date of his retirement cannot be entertained. The writ petitioner has not pursued the remedy during the relevant point of time and now after a lapse of several years, he has filed the present writ petition, that too at the age of 64 years and now he would be around 69 years.

8. Thus, the relief as such sought for cannot be granted and



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accordingly, the writ petition stands dismissed. No costs.

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Index : Yes
Speaking order: Yes
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To

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S.M.SUBRAMANIAM, J.

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