



W.P.No.1777 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.1777 of 2017

G.Gopal

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
Fort St.George,
Chennai – 9.
2. The Director of School Education,
College Road (DPI Compound),
Nungambakkam,
Chennai – 6.
3. The Chief Educational Officer,
Vellore,
Vellore District.
4. The Head Master,
Government of High School,
Melpatti,
Vellore District.

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the first respondent in Letter No.6469/CC1(2)/2016-2 dated 27.09.2016 and quash the same and further direct the first respondent to implement the order passed in W.P.No.893 of 2016 dated 11.01.2016.

For Petitioner : Mr.M.Thamizhavel

For Respondents : Mr.S.Yashwanth
Additional Government Pleader

ORDER

The order dated 27.09.2016, rejecting the claim of the writ petitioner for revision of pension and the grade pay is under challenge in the present writ petition.

2. The petitioner is a pensioner and filed the present writ petition at the age of 74. He was appointed as a Physical Education Teacher on 04.10.1966 and was awarded selection grade and special grade in the said post. The petitioner retired from service on 31.05.2000 on attaining the age of superannuation. The petitioner is receiving pension from 01.06.2000 onwards.



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3. The grievances of the writ petitioner is that the revision of pension and grade pay arrears as per G.O.(Ms)No.235, Finance (Pay Cell) Department dated 01.06.2009 has not been paid. In this regard, the writ petitioner earlier filed W.P.No.893 of 2006 and this Court passed an order on 11.01.2016, directing the authorities to consider the petitioner's representation and pass orders.

4. Pursuant to the directions issued by this Court, the Government passed an order in proceedings dated 27.09.2016, stating that the Government of India recommendations of Pay Commission need not be followed by the State Government on the same line. The State Government is empowered to design the pay and pension structure of its own employees within the available resources of the State. It is contended that the State Government has got a right to modify the pay structure or otherwise with reference to the recommendations of the Government of India Pay Commission.

5. In the present case, the Government of Tamil Nadu issued G.O.(Ms)No.235, Finance (Pay Cell) Department, dated 01.06.2009 and as per the State Government Order, the fixation was done and consequently the pension



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as applicable are being paid to the writ petitioner. Importantly, the respondent has stated that the resource position of the Central Government cannot be compared with that of the State Government and due to various legal interventions a number of Government Orders have been issued with huge impact on State Finance which is unsustainable in the long run. Further revision of pension and other retirement benefits without considering financial constraints of the State will lead to more financial stress and the State cannot implement development and infrastructure schemes.

6. The scope of judicial review under Article 226 of the Constitution of India, in the matter of fixation of pay is limited. Only if there is any illegality, then alone the Court would interfere with the pay structures by exercising powers of judicial review but not otherwise.

7. In the present case, the writ petitioner filed the writ petition after a lapse of about 17 years from the date of retirement. Revision of pension was granted to him based on the Government Order issued in G.O.(Ms)No.235, Finance (Pay Cell) Department dated 01.06.2009 and there was a delay of about



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8 years from the date of passing of the Government Order.

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8. Under these circumstances, this Court do not find any infirmity in respect of the order impugned. That apart, there is a force in the contention set out in the impugned order. The financial constraints of the State in implementing certain Government Orders are also to be considered by this Court. For all these reasons, this Court is not inclined to consider the relief as such sought for in the present case.

9. Accordingly, the writ petition stands dismissed. No costs.

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Index:Yes/No
Speaking order/Non-speaking order
rgm/gpa



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To

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S.M.SUBRAMANIAM, J.

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