BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.22246 of 2022

N.Thirunavukkarasu ... Petitioner

Vs

1.The State represented by
The Additional Chief Secretary to Government,
Finance (Pension) Department,
Secretariat,
Chennai – 600 009.

2.The Under Secretary to Government,
Finance (Pension) Department,
Secretariat,
Chennai – 600 009.

3.The Principal Accountant General (A & E),
No.361, Anna Salai,
Tyenampet,
Chennai – 600 018.

4.The Commissioner of Treasuries and Accounts,
Perasiriar K.Anbalagan Maligai,
571, Anna Salai,
Nandanam,
Chennai – 600 035.

5.The Additional Treasury Officer,
District Treasury,
Old Collectorate Compound,
Trichy – 620 001. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for records related to the Order No.O.Mu.11828/2022/G.1 dated 10.08.2022 passed by the fifth respondent and quash the same and consequently, direct the respondents to pass orders "granting the First Slab of Additional Pension of 20 percent" earmarked for "From 80 years" to the petitioner with effect from 17.08.2022 i.e. the date of starting of 80th year and grant arrears of Additional Pension with D.A. From 17.08.2022, within a time limit to be fixed by this Court.

For Petitioner	:	Mr.A.Thirumurthy
For Respondents	:	Mr.J.K.Jayaseelan Government Advocate for R.1, R.2, R.4 & R.5 Mrs.S.Mahalakshmi Standing Counsel for R.3

ORDER

Heard the learned counsel on either side.

2. The only issue that cause for consideration is whether the writ petitioner who is a pensioner is entitled to additional pension from the date when he has entered the 80^{th} year. G.O(Ms)No.42 Finance (Pension) Department, dated 07.02.2011 was issued accepting the main demand of the

pensioner association for sanctioning 20% to 100% additional quantum of pension on the basic pension already drawn by them. The procedure has been set out in paragraph 3 of the Government Order in the following terms:

"3. The following procedures shall be followed while sanctioning an additional quantum of Pension / Family Pension, ordered in Para 2 above.

SI. No.	***Procedure***
1	*The amount of additional Pension / additional Family Pension shall be shown distinctly.*
2	*Additional pension / additional Family Pension shall be taken into account for calculation of Dearness allowance.*
3	*Additional Pension / additional Family Pension shall be sanctioned with monetary benefit from 1.1.2011.*
4	*Additional Pension / additional Family Pension to the Pensioner / Family Pensioner shall be sanctioned from the first day of the month in which he / she completes the age of 80 / 85 / 90 / 95 / 100 years or from 1.1.2011, whichever is later."*

3. A mere reading of the aforesaid procedure would indicate that the additional pension shall be sanctioned only from the first day of the month in which he / she completes the age of 80/85/90/95/100 years. The Government issued yet another Government Order, namely, G.O(Ms)No.313 Finance [Pay Cell] Department, dated 25.10.2017 which states as follows:

"20. (1) The quantum of additional pension/family pension shall continue to be as specified in the table given below: -

SI. No.	***Age of Pensioner / Family Pensioner***	***Additional quantum of pension / family pension***
[1]	*[2]*	*[3]*
1.	*From 80 years to 84 years*	*20% of revised pension / family pension*
2.	*From 85 years to 89 years*	*30% of revised pension / family pension*
3.	*From 90 years to 94 years*	*40% of revised pension / family pension*
4.	*From 95 years to 99 years*	*50% of revised pension / family pension*
5.	*100 years or more*	*100% of revised pension / family pension*

(2) The Pension Disbursement Authorities shall ensure that the date of birth and the age of the pensioners/family pensioners is invariably indicated in PPO (issued by Principal Accountant General (Accounts and Entitlement), Tamil Nadu and the pension payment order to facilitate payment of additional pension/family pension by them as soon as it becomes due. If the requisite information is not available in the Pension Payment Order (PPO), in those cases the requisite information may be obtained from the Pensioners / Family Pensioners before adding the additional pension/family pension in the existing pension/family pension. The amount of additional pension/family pension shall be shown distinctly in the pension/family pension payment order.

Illustration:- *In case where a pensioner/family pensioner is more than 80 years of age and his pension/family pension is Rs.10,000/- per month, the pension/family pension shall be shown as (i) pension / family pension = Rs.10,000/- and (ii) additional pension / family pension = Rs.2,000/- per month. The pension / family pension on his attaining the age of 85 years shall be shown as (i) Pension / family pension = Rs. 10,000/- and additional pension / family pension = Rs.3,000/- per month.*

(3) The additional pension/family pension on attaining the age of 80 years and above shall be admissible from the first day of the month in which his date of birth falls.

Illustration:- *If a pensioner/family pensioner completes age of 80 years on any date in the month of July 2016, he shall become entitled to additional pension/family pension with effect from the 1st July, 2016.*

(4) Dearness allowance shall also be admissible on the additional pension/family pension in accordance with the orders issued by the Government from time to time."

4. The key to the issue raised in this writ petition is in the illustration set out in paragraph 20 of G.O(Ms)No.313 Finance [Pay Cell] Department, dated 25.10.2017. A reading of paragraph 2 in G.O(Ms)No.42 Finance (Pension) Department, dated 07.02.2011 and the illustration set out in G.O(Ms)No.313

Finance [Pay Cell] Department, dated 25.10.2017 leaves one in no manner of doubt. Only after the pensioner completes the age in question, he is entitled to seek additional pension. He or she cannot seek additional pension the moment they step in to the year in question. After the petitioner completes the age of 80, the petitioner will be entitled to payment of additional pension.

5. With the aforesaid direction, this writ petition is dismissed. No costs.

10.11.2022

Index : Yes / No
Internet : Yes/ No
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To

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G.R.SWAMINATHAN, J.

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