



W.P.(MD)No.22178 of 2015

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.22178 of 2015

S.Jeyagopal

... Petitioner

vs.

1. The Commissioner of Municipal,
Administration, Chepauk,
Chennai – 5.

2. The Directorate of Local Fund Audit,
Kuralagam, 4th Floor, Chennai – 108.

3. The Commissioner,
Nagercoil Municipality, Nagercoil.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of ***Certiorarified Mandamus***, to call for the records relating to the proceedings of the 2nd respondent in PP.Order No.25857/M and the cancellation and recovery order in the annexure there to and quash the same and direct the respondents to fix the pension of the petitioner as Rs.8,909/-and family pension as Rs.5,436/-and also settle the pensionary benefits of the petitioner with 12% interest for the belated payment to be made.



W.P.(MD)No.22178 of 2015

WEB COPY

For Petitioner : M/s.D.Nallathambi and
V.Meenakshisundaram
For R-1 & R-2 : M/s.D.Farjana Ghoushia
Special Government Pleader
For R-3 : Mr.P.Athimoola Pandian

ORDER

This Writ Petition is filed for issuing Writ of *Certiorarified Mandamus*, to quash the proceedings of the 2nd respondent in PP.Order No. 25857/M and the cancellation and recovery order in the annexure there to and also seeking direction to the respondents to fix the pension of the petitioner as Rs.8,909/-and family pension as Rs.5,436/-and also settle the pensionary benefits of the petitioner with 12% interest.

2. The brief facts are that the petitioner has joined as Revenue Assistant in the Municipal Administration Department on 17.05.1984. While in service, the petitioner was issued a charge memo, dated 11.03.2010. In the meanwhile, the petitioner has attained superannuation on 30.11.2013 as Revenue Assistant. Thereafter, the first respondent vide proceedings, dated 18.04.2015 exonerated the petitioner from the charges.



W.P.(MD)No.22178 of 2015

WEB COPY

3. The contention of the petitioner is that, he has completed departmental test i.e., applicable to the post of Junior Assistant. The Revenue Assistant Grade-I and Junior Assistant post are interchangeable. The Junior Assistant is eligible for once they have completed the departmental test, however, the respondents are denied incentive increment stating that the Revenue Assistant Grade I post is not eligible for incentive increment, even they are completed the departmental test. This contention cannot be accepted. Once the post is interchangeable, the benefit i.e., granted to the Junior Assistant post should automatically conferred to the Revenue Assistant Grade I also. The petitioner is holding the post of Revenue Assistant Grade I and has completed departmental test. Therefore, this Court is of the considered opinion that the petitioner is entitled for incentive increment from the date of completion of the departmental test.

4. The next contention that was raised by the petitioner is that, he is entitled for promotion, because the petitioner was exonerated from the charges, vide proceedings, dated 18.04.2015. A delinquent, once the departmental



W.P.(MD)No.22178 of 2015

WEB COPY

proceedings ended in exoneration, then the delinquent is automatically entitled to incentive increment, as if no departmental proceedings was initiated. Therefore, this Court is of the considered opinion that the petitioner is entitled for promotion as well.

5. Accordingly, this Writ Petition is allowed. The impugned order passed by the 2nd respondent in PP.Order No.25857/M, cancelling the incentive increment and the recovery order is set aside. The respondents are directed to refix the petitioner's pension and family pension, accordingly and settle the same with 5% interest. The respondents are also directed to grant notional promotion to the petitioner. It is made clear that the petitioner is not entitled to any monetary benefits. The effect can be added to the pensionary benefit alone. No Costs.

Index : Yes / No
Internet : Yes
ksa

01.11.2022



WEB COPY



W.P.(MD)No.22178 of 2015

To

1. The Commissioner of Municipal,
Administration, Chepauk,
Chennai – 5.
2. The Directorate of Local Fund Audit,
Kuralagam, 4th Floor,
Chennai – 108.



WEB COPY



W.P.(MD)No.22178 of 2015

S.SRIMATHY, J

ksa

W.P.(MD)No.22178 of 2015

01.11.2022