



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2022

CORAM :

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD).No.22633 of 2017

and

W.M.P(MD).No.18927 of 2017

R.Subbaraju

... Petitioner

Vs.

1.The Principal Secretary to Government,
School Education Department,
Secretariat,
Chennai-600 009.

2.The District Elementary Educational Officer,
Virudhunagar,
Virudhunagar District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent i.e., the Principal Secretary to Government, School Education Department, Chennai relating to his கடிதம் எண் .27763/நீ.வ.2(2)/2017 dated 24.11.2017 which is based on G.O.Ms.No.311 Finance (CPMC) Department dated 31.12.2014 and quash the same and consequently direct the Government to sanction the last increment which fell due on 01.07.2011 to the petitioner and arrange to send revised pension proposals within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.V.Visvalingam

For Respondents : Mr.V.Omprakash

Government Advocate (Civil Side)

O R D E R

This writ petition has been filed for a writ of Certiorarified Mandamus to quash the order passed in கடிதம் எண் .27763/நீ.வ.2(2)/2017, dated 24.11.2017, which is based on G.O.Ms.No.311 Finance (CPMC) Department, dated 31.12.2014 and consequently direct the Government to sanction the last increment which fell due on 01.07.2011 to the petitioner and arrange to send revised pension proposals.



2. The petitioner had served as a Driver in the Office of the District Elementary Educational Officer, Virudhunagar and was allowed to retire on 30.06.2011. The petitioner has received all the terminal benefits but the last increment of the petitioner which was fell due on 01.07.2011 was not sanctioned and paid to the petitioner. As per the specific provision contained in FR 26 (a) Appendix (ix), the increment of a Government Servant which falls due in a quarter has to be sanctioned on the day of the quarter even though he retires from the service period to the actual date of accrual of increment.

3. The petitioner relied on orders passed by this Court in W.P. (MD). No.22589 of 2010, dated 03.08.2011 which was confirmed by the Division Bench in W.A.No.2095 of 2011, dated 10.11.2011 and by the Hon'ble Supreme Court in C.C.No.10842 of 2013, dated 04.07.2013. In G.O.Ms.No.311 Finance (CMPC) Department, dated 31.12.2014 making provisions for sanction of such increment with prospective effect.

4. The contention of the petitioner is that the benefit has already been granted in the FR 26 (a) Appendix (ix) and the benefit is applicable from the date of issuance of FR 26 (a) Appendix (ix) and the subsequent G.O. cannot curtail benefits. The impugned order has rejected the claim of the petitioner stating that the petitioner had retired on 30.06.2011 and the G.O.Ms.No.311 Finance (CMPC) Department was passed on 31.12.2014 and the benefits of the G.O. ought to be disbursed from the date of the G.O. i.e. 31.12.2014 onwards and not to the persons who are retired prior to 31.12.2014. Since the petitioner has retired from service on 30.06.2011, the rejection order was passed by the Government in the impugned letter, dated 24.11.2017. Aggrieved over the impugned order, the present writ petition has been filed.

5. The respondents have not filed any counter but relied on the impugned order and the G.O. Ms. No. 311.

6. Heard the learned counsel for the petitioner, the learned Government Advocate for the respondents and perused the materials on record.

7. The contention of the petitioner is that as per Fundamental Rule 26, the petitioner was entitled to increment, which fell due on 01.07.2011 since the petitioner was retired on 30.06.2011. The petitioner is entitled to increment since the petitioner has retired on the previous day where the last increment fell due. On perusal of the FR 26 (a) Appendix (ix), it is seen that the increment of a Government Servant which falls due in a quarter has to be sanctioned on the day of the quarter even though he retires from the service period to the actual date of accrual of increment. In such circumstances, the petitioner is entitled to the said increment.



There are several orders passed by this Court, where it has been stated if any increment fell due during that academic year then the teaching or other non-teaching staff will be eligible for the said increment. The petitioner relied on the decision of the Division Bench of the Principal Seat of this Court in W.A.No.2095 of 2011, dated 10.11.2011, wherein, it has been held that the retired employees are entitled to the due if it falls in the academic year which is being the retirement year of the employee.

8. Therefore, this Court is of the considered opinion that the petitioner is entitled to the increment, which fell due on 01.07.2011. The respondents are directed to grant the last increment due and consequently, revision of pensionary benefits shall be calculated and the same shall be paid to the petitioner. Even though the petitioner is entitled from the year 2011 onwards, the monetary benefits shall be granted from the year 2017 onwards since this writ petition was filed in the year 2017. The entire exercise shall be completed by the respondents within a period of eight weeks from the date of receipt of copy of this order.

9. With this direction, the writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P & A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Principal Secretary to Government,
School Education Department,
Secretariat,Chennai-600 009.

2.The District Elementary Educational Officer,
Virudhunagar, Virudhunagar District.

+1 CC to M/s.SPL.GP. (SR-22106[F] dated 28/04/2022)

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-22305[F] dated 28/04/2022)

W.P (MD) No.22633 of 2017
27.04.2022

svs (CO)

TR(10.06.2022) 3P 5C