IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.09.2023

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P No.10592 of 2012

Dr.O.M.Abdul Waheed .... Petitioner

Vs

State of Tamil Nadu
by its Secretary (Finance),
Pension Department,
Fort St.George,
Chennai – 600 009. .... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent to dispose of the representation dated 08.02.2012 and consequently direct the respondent to implement the order dated 07.08.2006 passed in W.P.No.24271 of 2006.

For Petitioner : Mr.S.Sairaman
For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader

ORDER

This Writ Petition has been filed for direction directing the respondent to dispose of the representation of the petitioner dated 08.02.2012.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner had put in 26 years of service in Health Department in the Government of Tamil Nadu. The Government had formulated a regular scheme for compensating pensioner for erosion in the level of their scale of pension due to increase in prices. It is also provided for merger of Dearness Allowance with a pay for the benefit of the pensioner. In view of the same, the Dearness Allowance Committee constituted and recommended that the Dearness Allowance paid up to 01.04.1975 has treated as Dearness Pay and it was approved on 06.02.1975 in G.O.Ms.No.115. 4. In G.O.810 Finance Department dated 09.08.1989, the 4th pay Commission also similarly recommended to the Government that the Dearness Allowance drawn once in three years must be taken as Dearness Pay for the purpose of computing pension in order to ensure a reasonable pension. It was accepted in G.O.Ms.No.371, Finance Department, dated 30.04.1986. As far as the petitioner is concerned, he was already retired from service after 31.12.1995. Further revision of pay and pension have been ordered with effect from

01.01.1996 following the revision of pay made by Government of India and orders have been issued in G.O.Ms.No.174, Finance Department dated 21.04.1998 for revision with effect from 01.01.1996. Therefore, the Government of India did not treat entire Dearness Allowance as Dearness Pay for calculation of pension.

4. The State Government, based on the Fifth Pay Commission, has extended Central Scales of pay to its employees with effect from 01.06.1988. Subsequently, the next three pay commissions were implemented with effect from 01.01.1996, 01.01.2006 and 01.01.2016 by merging the same quantum of Dearness Allowance drawn by the serving employees and the pensioners are drawing pensionary benefits following the Government of India pattern. The petitioner had retired after 31.12.1995, the automatic pension revision, in which Dearness Allowance had already been merged and it has been allowed to the pensioners as in the case of serving personnel. After implementation of the subsequent Pay Commission recommendations, the question of merging the Dearness Allowance separately as Dearness Pay for calculating the pension on the petitioner as ordered in G.O.Ms.No.371,

Finance Department, dated 30.04.1986, does not arise, since it pertains to the previous Pay Commission.

5. In view of the above, the petitioner is not entitled for the relief sought for in this writ petition. Thus, the writ petition is devoid of merits and is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs.

26.09.2023

Index : Yes/No
Internet : Yes/No
Lpp

To

The Secretary (Finance),
Pension Department,
Fort St.George,
Chennai – 600 009.

G.K.ILANTHIRAIYAN.J

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