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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2023

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THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.6830 of 2020

T.M.Dhanaselvam

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Petitioner

/vs/

1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Handloom, Handicrafts,
Textiles & Khadi Department,
Secretariat, Chennai.

2. The Director of Sericulture,
Sericulture Department,
Hasthampatti, Salem.

...

Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 2nd respondent to extend the benefits of the order of the Court dated 27.08.2019 in W.A.No.2782 of 2012 and grant all attendant service benefits to the petitioner including monetary benefits and revision of pension.

For Petitioner : Mr.N.S.Siva Kumar

For Respondents : Mr.T.Chezhiyan,
Additional Government Pleader



ORDER

The petitioner has filed this Writ Petition seeking a direction to extend the benefits of the order of this Court dated 27.08.2019 in W.A.Nos.2782 of 2012 etc., and batch and grant all attendant service benefits including monetary benefits, revision of pension to the petitioner.

2. Heard, Mr.N.S.Siva Kumar, learned counsel for the petitioner and Mr.T.Chezhiyan, learned Additional Government Pleader for the respondents and perused the materials available on record.

3. The relevant paragraph in the Writ Appeals filed by the State in W.A.Nos.2782 of 2012 etc., and batch, reads as follows:

"11. Accordingly, the orders passed by the learned Single Judges are set aside and the writ appeals are allowed in the following manner:

(1) The appellants are directed to revise the pension being received by the respondents applying the same yardstick followed in the case of similarly placed persons, who got favourable orders;

(2) Appropriate orders will have to be passed within 12 weeks from the date of receipt of a copy of this order.

(3) The respondents are entitled for revised pension only



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prospectively i.e., from the date of the orders passed by the appellants."

4. The above Writ Appeal had arisen out of the orders passed in W.P.Nos.28403 of 2011 etc., and batch. The said writ petitions have been filed by the petitioners therein seeking orders to issue directions to the respondents to place them at the level of operative and demonstrative to be counted in the post of Junior Inspector of Sericulture in tune to the Government order in G.O.Ms.694, Finance (Pay Cell) Department dated 11.08.1986. However, some of the Writ Petitions have been allowed and some Writ Petitions in the batch have been dismissed.

5. Therefore, the Government has chosen to file an Appeal against those writ petitions before the Hon'ble Division Bench of this Court in W.A.No.2782 of 2012 and the same was allowed. Now the petitioner in this petition claims himself as a similarly placed person and sought for the same relief to be extended to him also.

6. However, Mr.T.Chezhiyan, learned Additional Government Pleader for



the respondents submitted that the above order which has been granted in respect of a single person cannot be called as an order in '*rem*'. Because there are other similar petitions which were filed by similarly placed persons and their petitions were dismissed.

7. It is further stated that those petitions have been dismissed on the ground that the post of 'Operative and Sericulture Demonstrator' are not the same cadre and Sericulture Demonstrator post is a feeder post for promotion to the post of Junior Inspector of Sericulture. Those petitions which have been dismissed were of the year 2006 and the orders were of the year 2009. However, it is seen that those adverse orders have been passed by taking into account of the earlier Government Orders which have been issued in the year 1983 vide G.O.Ms.898 Personnel and Administrative Reforms Department (P.& A.R) dated 23.09.1983. Those petitioners who omitted to challenge the above adverse orders in the light of the G.O.Ms.694, Finance (Pay Cell) Department dated 11.08.1986 cannot be considered to be equal to those who have got a favourable order in subsequent Writ Appeals. As on today, the orders passed in WA.No.2782/2012 which had granted the relief is final and it was not subjected to challenge. There are no materials produced before the Court to show that the same was put to challenge.

8. Mr.N.S.Siva Kumar, the learned counsel for the petitioner has drawn the



attention of this Court to the judgement of the Hon'ble Supreme Court held in the case of ***U.P.Power Corporation Ltd Vs. Ram Gopal*** reported in ***(2021) 13 Supreme Court Cases 225***. In support of his contention that whenever an order has been passed by a similarly placed persons, the government cannot expect the rest of the similarly placed person to come to Court each time and get an order in his favour as well. If a set of employees are given with relief that has to be construed that other identically placed persons will also get the benefit even without coming to the court by filing separate litigations by each of them.

9. Even in the principles of laches and delays and acquisitions will not be applicable to the case in which the judgement pronounced by the court would have the impact of judgement *in rem*. In such cases even though the similarly placed persons have adopted to come to court and challenge the wrongful order, the benefit of the order passed by the court will automatically extend to their benefit as well. In this regard it is relevant to extract the following paragraphs of the above mentioned judgement:

“We may hasten to add that these principles may not, however, apply to judgments which are delivered inrem. The State and its instrumentalities are expected In such category of cases to themselves extend the benefit of a judicial pronouncement to all similarly placed employees without forcing each person to individually knock the doors of courts. This distinction between operation of delay and laches to judgments delivered



in rem and in personam, is lucidly captured in *State of Uttar Pradesh v. Arvind Kumar Srivastava*⁴, laying down that:

“ 22.1. The normal rule is that when a particular set of employees is given relief by the court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of *Article 14* of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

22.2. However, this principle is subject to well-recognised exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

22.3. However, this exception may not apply in those cases where the judgment pronounced by the court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated persons. Such a situation can occur when the subject-matter of the decision touches upon the policy matters, like scheme of



regularisation and the like (see *K.C. Sharma v. Union of India* [*K.C. Sharma v. Union of India*, (1997) 6 SCC 721 : 1998 SCC (L&S) 226]).

On the other hand, if the judgment of the court was in personam holding that benefit of the said judgment shall accrue to the parties before the court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.” (Emphasis applied)”

10. In the case in hand also, the earlier order has been passed in favour of the similarly placed persons and that goes without saying that the other similarly placed persons are also eligible to get the benefit of the above order even without they come before the Court. Even in the counter of the 2nd respondent the fact that the earlier adverse orders passed against the persons similarly placed to the petitioners were set aside subsequently by virtue of the order passed in W.A.Nos.2782/2012 batch.

11. In pursuant to the above order passed in W.A.Nos.2782/2012 and batch, now the only request that can be made by the second respondent is to give effect to the benefit prospectively from the date on which the orders are passed by the authority concerned. Even though in the Writ Appeals there is no specific words that the order is applicable to the similarly placed persons, the principle applied is an application of Rule or Order and not a persons personnel or



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exclusive situation. Hence, in all fairness, the respondents are duty bound to extent the benefits of the earlier order in W.A.Nos.2782/2012 and batch to all similarly placed persons including the petitioner. Hence, I have no hesitation to allow the Writ Petition in the similar lines on the order passed in W.A.Nos.2782/2012 and batch.

12. In view of the same, the Writ Petition is **allowed** and the respondents have directed to revise the pension being received by the petitioner by applying the same yardstick followed in the case of similarly placed persons who have already got favourable orders as mentioned earlier from this Court and pass appropriate orders within a period of twelve weeks from the date of receipt of copy of this order. However the petitioner is entitled to get the revised pension prospectively from the date on which the orders passed by the respondents. No costs.

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Index : Yes
Internet : Yes/No
jrs



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R.N.MANJULA, J.
jrs

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