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W.P.No.10976 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.10976 of 2023 and
W.M.P.No.10875 of 2023

S.Sankara Narayanan

... Petitioner

Versus

1.Union of India,

Represented by its Joint Secretary to Govt.,
Department of Empowerment of Persons
with Disabilities, Divyangjan,
Ministry of Social Justice and Empowerment,
Department of Empowerment of Persons
with Disabilities, (DEPwD), MSJ & E,
5th Floor, Pt.Deendayal Antyodaya Bhavan,
CGO Complex,
Lodhi Road, New Delhi – 110003.

2.Director,

The National Institute for Empowerment of Persons
with Multiple Disabilities (NIEPMD)
Muttukadu, East Coast Road, Kovalam (PO),
Chennai 603 112.

3.The Deputy Registrar – Admin (offg),

The National Institute for Empowerment of Persons
with Multiple Disabilities (NIEPMD)
Muttukadu, East Coast Road, Kovalam (PO),
Chennai 603 112.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,
to issue a Writ of Mandamus or any other appropriate Writ, Order or



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Direction, directing the respondents to pay the sanctioned provisional pension in full as per Office Order No.NIEPMD/Admin.2 (86)/2022/1802 dated 30.12.2022 and also to disburse the amount illegally reduced from his sanctioned provisional pension for the month of January and February, 2023.

For Petitioner : Mr.Karthick Rajan for Mr.Menon
For Respondents : Mr.J.Madhanagopal Rao,
Central Government Standing Counsel

ORDER

This Writ Petition has been filed to direct the respondents to pay the sanctioned provisional pension in full as per Office Order No.NIEPMD/Admin.2(86)/2022/1802, dated 30.12.2022 and also to disburse the amount illegally reduced from his sanctioned provisional pension for the month of January and February, 2023.

2.The grievance of the Writ Petitioner is that the petitioner was superannuated on 31.12.2022 and he has been permitted to retire from service subject to the outcome of disciplinary proceedings. The details of the provisional pension, which has been sanctioned by order, dated 30.12.2022 as follows:-



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<i>Details</i>	<i>Amount (Rs)</i>
Average emoluments for the purpose of pension	Rs.1,15,500-00
Basic pension admissible – (50%) of average emoluments for the purpose pension	Rs.57,750-00
Dearness Allowance (38%)	Rs.21,945-00
Total Pension Payable	Rs.79,695-00

Despite sanctioning the above provisional pension, the same has not been paid to the petitioner. Hence, seeks direction of this Court.

3.A counter has been filed by the respondents admitting that the petitioner was superannuated on 31.12.2022 and the order for release of provisional pension has been passed on 30.12.2022. The grievance of the respondents is that the matter regarding the payment of full pension is referred to the Ministry and after receiving the concurrence from the Ministry, the difference amount will be paid to the petitioner. Though the counter is also covered in respect of the disciplinary proceedings, the same is not germane for this writ petition.

4.Heard the submissions of the learned counsel for the petitioner and the learned Central Government Standing Counsel for the respondents.



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5. Admittedly, the provisional pension is sanctioned on 30.12.2022, which is not denied in the counter. The only grievance is that the matter is pending before the Ministry for paying the differential amount. The pension is the last resort of the persons retire to eke out their livelihood.

6. In such view of the matter, having passed the order on 30.12.2022 sanctioning the provisional pension, the same cannot be withheld or reduced in any manner. Hence, the 2nd respondent is directed to pay the provisional pension sanctioned on 30.12.2022 and also the differential amount from the month of January 2023 onwards, within a period of one month from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition stands disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index : Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

Speaking Order/Non-Speaking Order

To

1. The Joint Secretary to Government,
Union of India,
Department of Empowerment of Persons
with Disabilities, Divyangjan,
Ministry of Social Justice and Empowerment,
Department of Empowerment of Persons
with Disabilities, (DEPwD), MSJ & E,
5th Floor, Pt.Deendayal Antyodaya Bhavan,
CGO Complex,
Lodhi Road, New Delhi – 110003.
2. The Director,
The National Institute for Empowerment of Persons
with Multiple Disabilities (NIEPMD)
Muttukadu, East Coast Road, Kovalam (PO),
Chennai 603 112.
3. The Deputy Registrar – Admin (offg),
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N.SATHISH KUMAR, J.
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