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WA No.1156 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No.1156 of 2022
and
CMP No. 7346 of 2022

The Principal Accountant General (A & E)
No.361, Anna Salai, Chennai

.. Appellant

Versus

1. A. Chandrakesan
2. The Additional Chief Secretary,
Rural Development & Panchayat Department,
Fort St.George Secretariat, Chennai.
3. The Director,
Rural Development & Panchayat Department,
Panagal Building,
Saidapet, Chennai - 15
4. The District Collector,
Villupuram District.
5. The Block Development Officer,
Panchayat Union, Kanai,
Villupuram District

.. Respondents

Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 15.07.2021, as substituted by the order dated 26.08.2021 made in WP No. 24077 of 2019 on the file of this Court.



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For Appellant : Mr. V. Vijay Shankar

For R1 : Mr. L. Chandrakumar
for Mr. V. Jaisankar

For R2,3,4 & 5 : Mr. S. Yashwanth,
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

Aggrieved by the order dated 15.07.2021, as substituted by the order dated 26.08.2021, passed by the learned Judge in WP No.24077 of 2019, the present intra-court appeal is filed by the appellant/fifth respondent in the writ petition.

2. The facts leading to the filing of this writ appeal are as follows:

2.1 The first respondent herein retired on 31.08.2008 as Road Inspector. After his retirement, he filed WP No. 7729 of 2017 seeking to extend certain monetary benefits conferred by the Government in G.O.Ms.No.856, Public Works Department, dated 01.06.1977, by notionally promoting him to the post of Road Inspector Grade - I with effect from 25.09.1985. The Writ Petition No. 7729 of 2017 was dismissed on 03.04.2017 by observing that there is an un-explained delay and laches on the part of the writ petitioner/first respondent herein in approaching this Court.



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Aggrieved by the same, he filed WA. No.736 of 2017 before the Division Bench of this Court and the same was disposed on 04.07.2017 with a direction to the respondents therein to extend the benefits to the first respondent herein from the date of the Judgment without any arrears. Pursuant to the Judgment of the Division Bench of this Court in W.A. No. 736 of 2017 dated 04.07.2017, the fourth respondent issued proceedings dated 27.09.2018 conferring the monetary benefits payable to the first respondent. Based on the above proceedings of the fourth respondent, the fifth respondent/the Block Development Officer, Panchayat Union, Kanai, Villupuram District, sent proposals to the appellant/The Principal Accountant General (A & E), Chennai, through a letter dated 12.04.2019 for revision of pensionary benefits payable to the first respondent. On receipt of the proposals, the appellant sent a letter dated 24.06.2019 stating that the proposals cannot be given effect to inasmuch as it is contrary to the directions issued by the Division Bench of this Court in the judgment dated 04.07.2017 in W.A. No. 736 of 2017. Challenging the letter dated 24.06.2019 of the appellant, the first respondent has filed the instant WP.No.24077 of 2019 seeking to extend him the benefits as per the proceedings dated 27.09.2018 issued by the Fourth respondent/District Collector.

2.2. The learned Judge, by the order dated 15.07.2021, which was



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substituted by another order dated 26.08.2021, disposed of the aforesaid writ petition in which a direction was given to the appellant to pass orders on the revised proposals, in the light of the judgment passed by the Division Bench of this Court in W.A.No.736 of 2017 as well as the order passed by the third respondent in writ petition/District Collector dated 27.09.2018. Feeling aggrieved, this appeal is filed by the appellant/ The Principal Accountant General, Chennai.

3. The learned counsel for the appellant submits that while passing the order dated 15.07.2021, the learned Judge directed the respondents 1 to 4 in the writ petition to pass revised proposals in accordance with the judgment of the Division Bench of this Court. However, the operative portion of the order dated 15.07.2021 was substituted subsequently on 26.08.2021 to the effect that the respondents 1 to 4 shall pass revised proposals in accordance with the Judgment of the Division Bench of this Court as well as the order dated 27.09.2018 passed by the third respondent therein namely the District Collector. Thus, the learned Judge, while passing the order dated 15.07.2021, accepted the objections raised on behalf of the appellant, but in the subsequent order dated 26.08.2021, over-turned the objections and directed the appellant to extend the benefits of the Government Order in favour of the first



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respondent/writ petitioner on the basis of the Judgment of the Division Bench of this Court as well as the proposals sent by the third respondent in the writ petition-District Collector. The learned Judge did not take note of the fact that the Division Bench of this Court specifically directed to extend the monetary benefits to the first respondent/writ petitioner only from 04.07.2017 i.e., the date of judgment in the writ appeal, but contrary to the same, a proposal dated 27.09.2018 was sent by the third respondent in the writ petition, which was specifically objected to by the appellant. Therefore, the learned counsel prayed for allowing the writ appeal by setting aside the order of the learned Judge.

4. On the above submissions of the learned counsel for the appellant, we have heard the learned counsel for the first respondent/writ petitioner and the learned Additional Government Pleader appearing for respondents 2 to 5 and also perused the materials placed on record.

5. It is evident that the issue as to the entitlement of the first respondent/writ petitioner to get the monetary benefits, on the basis of G.O.Ms.No.856, Public Works Department, dated 01.06.1977, by notionally promoting him to the post of Road Inspector Grade - I with effect from



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25.09.1985, is set at rest by virtue of the Judgment dated 04.07.2017 passed by the Division Bench of this Court in W.A. No. 736 of 2017. As per the said decision of the Division Bench, the first respondent/writ petitioner will be entitled for payment of monetary benefits from the date of judgment namely 04.07.2017. However, the learned Judge, by order dated 26.08.2021, disposed of the writ petition directing the appellant to pass orders on the revised proposals, in the light of the order passed by the third respondent in the writ petition / District Collector, Villupuram, dated 27.09.2018 as well, which, according to the learned counsel for the appellant, is not in consonance with the judgment dated 04.07.2017 passed by the Division Bench of this court in WA. No. 736 of 2017.

6. During the course of hearing, the learned counsel appearing for both sides submitted that there is no quarrel, if the order passed by the Division Bench in W.A.No.736 of 2017 dated 04.07.2017 is given effect to in letter and spirit.

7. In view of the above, this writ appeal stands disposed of, by modifying the order of the learned Judge, which is impugned in this writ appeal, to the effect that the appellant shall pass the revised proposals only in



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accordance with the Judgement dated 04.07.2017 passed by the Division Bench of this Court in WA.No.736 of 2017 within a period of twelve weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]
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