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W.P.No.32063 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

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THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No. 32063 of 2017

R.Dinakaran

... Petitioner

Versus

1.Principal Accountant General
Office of the Principal Accountant General
(Accounts and Entitlements) Tamil Nadu,
361, Anna Salai, Chennai-600 018.

2.Zonal Deputy Tahsildar
Thiruvidaimarudur Taluk,
Thanjavur District.

3.The Assistant Elementary Educational Officer,
Tiruppanandal,
Tanjore District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, prays to issue a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned order passed by the 1st respondent vide lettler No.Pen13/II/ppt No.12029/45865 dated 24.07.2015 and quash the same and direct the 1st respondent to santion/disburse the family pension to the petitioner from 02.05.2012 to 29.05.2016 till the completion of 25 years with interest.



W.P.No.32063 of 2017

For Petitioner : Mr.S.N.Ravichandran

For Respondents 1 : Mrs.T.Selvarani

For Respondent 2 & 3 : Mr.M.S.Prem Kumar
Government Advocate

ORDER

This writ petition has been filed seeking issuance of a writ of Certiorarified Mandamus to quash the impugned order passed by the 1st respondent vide letter No.Pen13/II/ppt No.12029/45865 dated 24.07.2015 and consequently, direct the 1st respondent to sanction/disburse the family pension to the petitioner from 02.05.2012 to 29.05.2016, till the completion of 25 years, with interest.

2. The case of the petitioner as stated in the affidavit filed in support of the writ petition is that his father is one A.Ramadoss who pre-deceased his mother, Sivaprakasam. They were blessed with three children apart from the petitioner. The petitioner's mother was working as Head Mistress at Mattiyur Elementary School(aided), Thirupananthal Union, Tanjore District and she



W.P.No.32063 of 2017

attained superannuation on 30.04.2004 and she died on 02.05.2012. The petitioner was aged 21 years at the time of demise of his mother. The elder siblings of the petitioner had crossed the age of 25 years by then and the petitioner was the only person entitled to receive family pension. The 3rd respondent vide letter No.R.C.No. C1614/2014 dated 19.11.2014 recommended the petitioner for family pension as per G.O.Ms.No.235 Fin(PC) dated 01.06.2009, to the 1st respondent. The 1st respondent directed the petitioner to produce income certificate from the Tahsildar concerned. The 2nd respondent issued a computerized and standard certificate stating that the petitioner has an income of Rs.36,000/- annually. It is the specific case of the petitioner that the said income certificate is not correct as the petitioner does not have any income at all and he has no employment. It is also stated that the petitioner is living in poverty and he does not have any movable or immovable assets in his name. The petitioner has given a representation on 31.12.2015 to the 2nd respondent requesting him to issue a fresh income certificate. However, in and by the impugned order, the petitioner's request for family pension has been rejected which is under challenge in the present writ petition.



W.P.No.32063 of 2017

3. The 1st respondent has filed a counter affidavit stating that the income certificate issued by the Tahsildar clearly mentioned the annual income of the petitioner is Rs.36,000/- which is excess of the income limit of Rs.2,550/- per month prescribed by Government, for becoming eligible for family pension.

4. Heard the learned counsel for the petitioner and the learned counsel for the 1st respondent and the learned Government Advocate for the 2nd and 3rd respondents.

5. This Court also perused the records available in the typed set of papers. It is seen that the income certificate dated 29.12.2014 issued by the 2nd respondent is an online income certificate and the income certificate appears to be issued in a prescribed format. Be that as it may, the petitioner has approached the 2nd respondent/Tahsildar on 31.12.2015 stating that the income certificate issued by the Tahsildar is incorrect and that he does not have any kind of income whatsoever and hence, he requested the 2nd respondent/Tahsildar to issue a fresh income certificate.

4/7



W.P.No.32063 of 2017

6. It is the specific case of the petitioner that being the only sibling, who was entitled to family pension and being below the age of 25 years and qualifying for the family pension, he made an application. The specific case of the petitioner is that he does not have any income and he was certainly entitled to family pension. The respondents have solely relied on the income certificate of the Tahsildar to deprive his rights seeking family pension. Therefore, this Court feels that when the petitioner had objected to the income certificate issued by the Tahsildar within a reasonable time, it would be appropriate to direct the 1st respondent to consider the petitioner's case afresh after giving opportunity to the petitioner to establish the factum for eligible of family pension as on the relevant date and in terms of the then prevailing pension scheme.

7. Accordingly, the impugned order passed by the 1st respondent vide letter No.Pen13/II/ppt No.12029/45865 dated 24.07.2015 is set aside and 1st respondent shall consider the petitioner's case afresh and pass orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.



W.P.No.32063 of 2017

WEB COPY

8. While carrying out this exercise, the 1st respondent shall also require the 2nd respondent to furnish a fresh income certificate for the petitioner.

9. With the above directions, this writ petition is disposed of. No costs.

22.06.2023

Index: Yes/ No
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To

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W.P.No.32063 of 2017

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