



W.P.No.13753 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.13753 of 2017

S.Anbalagan

... Petitioner

Vs.

1.The State of Tamil Nadu
rep.by the Secretary to Government,
Health and Family Welfare Department,
St. George Fort,
Chennai – 600 009.

2.The Secretary to Government,
Finance Department,
St.George Fort,
Chennai – 600 009.

3.The Director of Public Health and Preventive Medicine,
D.M.S. Complex,
Thenampet,
Chennai – 60018.

4.The Deputy Director of Health Services,
Cheyyar,
Thiruvannamalai District.



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5.The Accountant General,
(Accounts and Settlement),
Tamil Nadu, Annasalai,
Thenampet,
Chennai – 18.

6.The Branch Officer/Pen 8,
Office of the Accountant General,
(Accounts and Settlement),
Tamil Nadu, Annasalai,
Thenampet,
Chennai – 18.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 6th respondent relating to the impugned order of the respondent dated 20.12.2016 bearing Ref.No.Pen 8/111/10816496/RVN/C276252/PH/ADK and quash the same and consequently, direct the respondents to sanction the annual increment to the petitioner in respect of the service rendered by him from 01.07.2005 to 30.06.2006 and consequently, revised the pension/pensionary benefits and all other service benafits and pay all the arrears to the petitioner.

For Petitioner : Mr.R.Saravanan
for Mr.T.Saikrishnan

For Respondents : Dr.T.Seenivasan,



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Special Government Pleader
for R1 to R4

Mr.S.Balaji for R5 and R6

ORDER

This Writ Petition has been filed to quash the order of the 6th respondent dated 20.12.2016 and to direct the respondents to sanction the annual increment to the petitioner in respect of the service rendered by him from 01.07.2005 to 30.06.2006 and consequently, revise the pension/pensionary benefits and all other service benefits and pay all the arrears to the petitioner.

2.The petitioner joined the service in the 1st respondent Department with effect from 10.01.1970 as Basic Health Worker. Thereafter, he was promoted as Health Inspector Grade - I with effect from 09.10.1995. Pursuant to the promotion, the pay was fixed at Rs.1640/- in the pay scale of Rs.1350 - 2200 and the next date of his increment was fixed at 01.07.1996. On attaining the age of Superannuation, the petitioner retired from service with effect from 30.06.2006. From 01.07.2005 to 30.06.2006 the increment



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was not granted to the petitioner and the same was not included in the last drawn pay while calculating the pension as well as his retiral benefits.

3.The learned counsel for the petitioner would submit that as per G.O.Ms.No.311 dated 31.12.2014, it was ordered that for those of the employees who have rendered service even though they have superannuated before the date of falling of the increment due, such increment should be notionally granted to them and accordingly, the same has to be granted to all the employees. However, even prior to the said Government Order itself, there were orders of this Court in W.P.No.14401 of 2005 dated 29.07.2013 and in view of the same, by order dated 21.07.2015 in W.P.No. 21776 of 2015, this Court has already held that the Government Order cannot be prospectively applied, the principle is applicable to all persons, who have retired prior to the Government Order also. Under these circumstances, the petitioner made a representation to the respondents on 30.12.2015 requesting for payment of the last increment due to the petitioner on 01.07.2006. Thereafter, the 5th respondent has passed the impugned order dated 20.12.2016 whereby the relief is refused to him on the ground that



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the G.O.Ms.No. 311 dated 31.12.2014 is only on prospective effect. Hence, this Writ Petition.

4.The learned Special Government Pleader appearing for the respondents would submit that the pensionary benefits were admitted by the respondents office with pay last drawn as Rs.6350+pp125 as proposed by the Department vide PPO No.C276252. Subsequently, it revised with pay last drawn Rs. 12050+grade pay Rs.4400 as per One Man Commission report as proposed by the Department vide proceedings dated 29.12.2012. Claiming one increment on 01.07.2006 after the date of retirement 30.06.2006, the petitioner filed a Writ Petition quoting G.O.Ms.311, dated 31.12.2014. Further, the Accountant General is vested with the authority of authorizing pensionary benefits in respect of the retired Tamil Nadu Government Employees based on the proposals forwarded by the Department as per various Government Orders issued by Government of Tamil Nadu and as per Tamil Nadu Pension Rules. As per G.O.Ms.No.311, dated.31.12.2014, the Government direct that a government servant whose



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increment falls due on the day of following superannuation, on completion of one full year of service which are countable for increment under the Rule 26 of the Fundamental Rules.

5. On a perusal of the documents, it is seen that the petitioner joined the service in the 1st respondent Department with effect from 10.01.1970 as Basic Health Worker. Thereafter, he was promoted as Health Inspector Grade – I and on attaining the age of Superannuation, the petitioner retired from service with effect from 30.06.2006. From 01.07.2005 to 30.06.2006 the increment was not granted to the petitioner. The petitioner retired from service on 30.06.2006 and in the said G.O.Ms.No.311, dated 31.12.2014, the concession of sanction of notional increment shall take prospective effect from the date of issue of the said Government Order. Further, similarly placed person like that of the petitioner has filed W.P.No.21776 of 2015 before this Court and this Court by order dated 21.07.2015 allowed the Writ Petition and also the respondents have not filed any appeal against the said order. Further, the Division Bench of this Court in W.P.No.227 of 2019



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dated 27.09.2023 in the case of P.Sadasivam v. Union of India and 3 others

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at para 6, it is held as follows:

“6.At this juncture, it is useful to rely upon the relevant portion of the judgment of the Hon'ble Supreme Court dated 11.04.2023 in Civil Appeal No.2471/2023 before the Hon'ble Supreme Court, which is extracted hereunder.

“6.5Now, so far as the submission on behalf of the appellants that as the increment has accrued on the next day on which it is earned and therefore, even in a case where an employee has earned the increment one day prior to his retirement but he is not in service the day on which the increment is accrued is concerned, while considering the aforesaid issue, the object and purpose of grant of annual increment is required to be considered. A government servant is granted the annual increment on the basis of his good conduct while rendering one year service. Increments are given annually to officers with good conduct unless such increments are withheld as a measure of punishment or linked with efficiency. Therefore, the increment is earned for rendering service with good conduct in a year/specified period. Therefore, the moment a government servant has rendered service for a specified period with good conduct, in a time scale, he is entitled to the annual increment and it can be said that he has earned the annual increment for rendering the specified period of service with good conduct. Therefore, as such, he is entitled to the benefit of the annual increment on the eventuality of having served for a specified period (one year) with good conduct efficiently. Merely because, the government servant has retired on the very next day, how can he be denied the annual increment which he has earned and/or is entitled to for rendering the service with good conduct and efficiently in the preceding one year.



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Accordingly, this Writ petition is allowed. The respondents are directed to grant one increment for the service rendered by the petitioner in the preceding year and consequently, revise/re-fix the scale of pay, including pension and to pay the arrears of pension to the petitioner within three months from the date of receipt of a copy of this order. No costs.

23.11.2023

Index :Yes/No
Speaking order :Yes/No
Neutral citation :Yes/No
mps

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V.BHAVANI SUBBAROYAN, J,

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