



WP No.30226 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.07.2023**

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

WP No.30226 of 2018

1. M.Thavamani
2. K.Saratha
3. M.Sundaradoss ... Petitioners

-Vs-

1. The Government of Tamil Nadu
Represented by its Secretary
Rural Development and Panchayat Raj Department
Fort St. George, Chennai -9.
2. The Director of Rural Development Department
Panagal Building, Saidapet,
Chennai – 600 015.
3. The District Collector
Cuddalore District.
4. The District Collector
Tiruvannamalai District. ... Respondents



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PRAYER: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents herein to pay two increments for the training period in the post held by the husband of the writ petitioners as on 30.07.92, continuously upto their date of retirement and consequently take into account the said increments in the pensionary benefits and in the family pension of the petitioners and pay all monetary benefits and other attendant benefits as paid to others through G.O.Ms.No. 85 Rural Development and Panchayat Raj Department dated 11.09.2012 and G.O.Ms.No. 62 Rural Development and Panchayat Raj Department dated 27.06.2013 in compliance of the order passed in W.P.Nos. 33981 of 2005 and 39046/2005 dated 05.07.2011.

For Petitioners : Mr.N. Kolandaivelu

For Respondents : Mr.R. Neethi Perumal
Government Advocate

ORDER

Writ Petition has been filed in the nature of Mandamus by three petitioners seeking two increments to be paid as on 30.07.92, continuously upto the date of retirement for the posts in which their husbands have served under the respondents and consequently for necessary adjustments to ennure



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that benefit to the family pension which the petitioners are receiving. The petitioners place reliance on G.O.Ms.No. 85 Rural Development and Panchayat Raj Department dated 11.09.2012 and also G.O.Ms.No. 62 again Rural Development and Panchayat Raj Department dated 27.06.2013. They also place reliance on earlier orders of this Court and more particularly in W.P.Nos. 33981 of 2005 and 39046/2005 both dated 05.07.2011.

2. In the affidavit filed in support of the Writ Petition, which had been sworn by the third petitioner herein, it had been stated that the late husbands of the three writ petitioners were initially selected as Rural Welfare Officer Grade II through TNPSC. They had been sent for training for a period of two years. After training, they joined in the regular post as RWO Grade II. They were given further promotion to Grade I. They attained the age of superannuation. Unfortunately, the three petitioners have lost all their husbands. They now receive family pension.

3. It is contended by the learned counsel for the petitioner that the issue of taking into consideration the period of training of two years for



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provision of increment had been oscillating before the Courts, the Government orders have also been passed in this regard.

4. Reference can be made to an order of the High Court which had been referred earlier, namely, W.P.Nos. 33981 & 39046 of 2005. Those writ petitions were also filed seeking a Mandamus to direct to pay increments for the training period which was conducted prior to the regularisation of the writ petitioners therein. A learned Single Judge of this Court by an order dated 05.07.2011 had observed as follows:-

“10. In view of the aforesaid reasons, this Court is inclined to direct the respondents herein to pay the increments and other monetary benefits to the petitioners for the training period in the post held by them as on 30.07.1992 continuously up to the date of retirement of the petitioners and consequently, take into account the said increments and other monetary benefits in the pensionary benefits and in the monthly pension of the petitioners. It is made clear that



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the above said process shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

11. With the above direction, the writ Petitions are allowed. No costs. Consequently, connected Miscellaneous Petition in W.P.No. 33981 of 2005 is closed.”

5. Thereafter, on the basis of that particular order, G.O.Ms.No. 85 Rural Development and Panchayat Raj Department dated 11.09.2012 and G.O.Ms.No. 62 again Rural Development and Panchayat Raj Department dated 27.06.2013 had been passed but sanctioning and extending the benefit of payment of two increments only to those writ petitioners.

6. Therefore, others, who had not earlier filed Writ Petitions started to file writ petitions before this Court. Individual orders granting the reliefs sought were passed by learned Single Judges of this Court.



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7. Thereafter, G.O.Ms.No. 99 Rural Development and Panchayat Raj Department dated 16.02.2015 and other Government Orders were passed. The petitioners in the writ petitions then started approaching the respondents seeking extension of the benefits granted under the said Government Orders. The first respondent had then issued proceedings on 23.10.2017. By that proceedings, it was determined that the reliefs would be granted only to those who approach the Court seeking such relief.

8. The present Writ Petition has been filed in the nature of Writ of Mandamus stating that since the petitioners had approached the Court, they should be extended that benefit.

9. The facts stated cannot be denied, namely the facts of the husbands of the petitioners joining service, having undergone training and being taken into regular service and thereafter, being promoted as Rural Welfare Officer Grade I and then retiring on attaining the age of Superannuation. The fact that earlier Writ Petitions were filed claiming increments even from the date of undergoing training again cannot be



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denied. Orders were passed by the Courts and Government Orders were also passed. But this brought about a financial commitment on the Government since successively one after the other, various petitioners started to claim that particular extension to also be given to them. It was not restricted to only those who had earlier approached the Court but individual Writ Petitions then came to be filed.

10. The present Writ Petition has been filed after considerable delay. In the affidavit, the date on which the late husbands of the petitioners had retired on superannuation has not been given.

11. In the counter affidavit filed, it had been very specifically stated that the respondents have not received any copy of the representation said to have been given by the petitioners on 22.12.2017 or on 20.11.2018. The assertion that the petitioners had given those representations were denied and during the course of arguments, on the side of the respondents, it was also very strongly asserted that those representations do not form part of the records available and it is to be inferred that the said representations have



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not been given. It is therefore, contended on behalf of the respondents that the petitioners have slept over for a considerable number of years and had thereafter, filed the present Writ Petition in the year 2018 seeking extension of the right from 30.07.1992 onwards.

12. It had also been contended on behalf of the respondents that orders have been passed to comply with the directions of this Court in a few of the writ petitions, but those orders were applicable only to those writ petitioners and cannot be an order in rem. It is further contended on behalf of the respondents that those orders applied only to those writ petitioners. The bona fide of the petitioners in not approaching the Court at an earlier date had also been seriously questioned by the learned counsel on behalf of the respondents.

13. I have carefully considered the arguments advanced and perused the materials available on records.

14. As stated, the late husbands of the petitioners herein had been



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originally appointed after being selected by TNPSC as Rural Welfare Officer Grade II. Prior to even the initial posting, there was a necessity to send them for training for a period of two years. Then they continuously served as RWO Grade II and were promoted subsequently as Grade I Officers. Then they retired on attaining the age of superannuation.

15. In the affidavit, there is no explanation given as to why, after retirement on superannuation, the late husbands of the petitioners did not claim the privilege which the petitioners are now seeking. It has also not been stated as to why the petitioners did not seek such privilege of extending the increments for a period of two years for the period of training as early as possible.

16. The earliest writ petition seeking such privilege was filed in the year 2005 but disposed of in the year 2011 and thereafter, Government Orders were passed naturally complying with the directions of the High Court.



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17. The Government had to comply with the orders of the High Court but this brought about a situation that further representations were made and further writ petitions were filed. Thereafter, a Government Order was passed restricting the privilege only to those who filed writ Petitions but again writ petitions were filed and directions were given. This is one such writ petition. This had been filed in the year 2018.

18. The fact that increment as a policy should be granted from the period of training has been established by the series of orders of learned Single Judges of this Court. But what is to be taken into consideration is the applicability or the date from which it is applicable. If it is to be applicable right from the date on which the late husbands of the petitioners joined duty and continuously, then the petitioners would gain a bounty as on this date. However, the learned counsel for the petitioners stated that there would not be consequent upgrade in the scale of pay, but the terminal benefits will have to be recalculated with respect to the post which the late husbands held as on 30.07.1992.



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19. In this connection, the learned counsel place reliance on the Judgment of a learned Single Judge in W.P.No. 17459 of 2013 dated 27.06.2013. That Writ Petition alone had been filed by 149 petitioners. The learned Single Judge after considering the factors as stated above had finally ordered as follows:-

“3. In the circumstances, the petitioners are permitted to make individual representations to the first respondent setting out the grievance as to the non-payment of the benefits as provided in G.O.Ms.No. 85, Rural Development and Panchayat Raj Department dated 11.09.2012, as they are also similarly situated persons like the persons covered under the said Government order. The first respondent is directed to pass orders on the representation within a period of twelve weeks from the date of receipt of the representation.”



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20. It is also contended by the learned counsel for the petitioners that consequent to such order being passed, Government Order had already been passed explaining the delay.

21. In view of the established principles followed by the learned Single Judges, it would be extremely inappropriate on the part of this Court to give any divergent view. Rule of law also applies in maintaining consistency in orders. Therefore, I would also permit the petitioners to give a fresh representation as indicated above by the learned Single Judge and the respondents, may issue notice to the petitioners herein and examine the reasons for the delay in approaching the Court. I would place a small caveat that if the reasons for delay are not properly explained, there could be a small window open for the respondents not to extend the benefit for those number of period of years till the date of filing of the Writ Petition and thereafter, extend the benefit once again. There cannot be continuity in entirety but for the period of delay, there must be a small break given and thereafter continuously given.



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22. It is made clear that the family pension should be continued to be granted but there should be some adjustments for delay which would depend on the explanation given by the petitioners in their representations.

23. An obligation is placed on the respondents to comply with the directions of this Court. Such obligation would commence from the date of receipt of fresh representations given by the petitioners herein and from that date onwards, within a period of 16 weeks, the respondents may do the necessary needful and comply with the directions.

C.V.KARTHIKEYAN, J.,

vsg

24. The Writ Petition stands disposed of. No costs.

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vsg

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Internet: Yes/No

Speaking / Non Speaking Order

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To

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