



W.P(MD)No.12011 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.12011 of 2016

N.Varadarajan

...Petitioner

Vs.

The Assistant Executive Engineer
River Conservancy, Sub Division,
Musiri, Trichy District.

....Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus calling for the records relating to the respondent in his proceedings Ka.No./Ko26/2016/Oo.Se.Po(Mo)/(67) dated 07.03.2016 and quash the same and further direct the respondent to pay the petitioner's pension at the revise scale of pay as per the Government letter No.63305/Pay Cell/2010-(1) and (2) dated 08.11.2010 under the category of Special Grade for which the petitioner is eligible, with effect from 01.01.2006.



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For Petitioner : Mr.PT.S.Narendravasan

For Respondent : Mr.A.Kannan
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking to issue a writ in the nature of Certiorarified Mandamus calling for the records relating to the respondent issued in proceedings in Ka.No./Ko26/2016/Oo.Se. Po(Mo)/67 dated 07.03.2016 and quash the same and for a consequential direction to the respondent to pay the petitioner's pension at the revise scale of pay as per the Government letter No.63305/Pay Cell/2010-(1) and (2) dated 08.11.2010 under the category of Special Grade for which the petitioner is eligible, with effect from 01.01.2006.

2. The learned counsel for the petitioner submits that the petitioner was appointed as the Irrigation Inspector Grade II on 13.06.1969 in Public Works Department and awarded Selection Grade on 13.06.1979 and again he was awarded with Special Grade



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on 13.06.1989. Subsequently, he retired from service on attaining superannuation with effect from 28.02.2001 as Irrigation Inspector and he was getting pension from 01.03.2001. The learned counsel for the petitioner further contends that the petitioner is entitled to revise pay scale and revised pension. Therefore, he made a representation to the respondent on 24.02.2016. However, by the impugned order dated 07.03.2016 stating that pension has been fixed on the basis of the ordinary pay scale and the petitioner is not entitled for revised pension. The respondent has also issued proceedings dated 06.05.2016 stating that as per the recommendation made in Pay Commission, fixing cut off date as 01.01.2006 and the Department has no authority to revise the scale of pay of the petitioner and directed the petitioner to approach the Treasury Office.

3. In fact on 14.07.2016, the learned Government Advocate took notice on behalf of the respondent and sought time



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for filing counter. Accordingly, this Court by order dated 14.07.2016 posted the matter after 3 weeks for filing counter. Till today, counter affidavit has not been filed on behalf of the respondent.

4. As per Rule 24(2) of Madras High Court Writ Rules, the respondents have to file a counter within 8 weeks from the date of receipt of notice. In the present case, though the respondent took notice on 14.07.2017 through their Government Advocate, till today counter affidavit is not filed.

5. Under the above factual position, this Court is of the opinion that the respondent has no counter to file to deny the contents of the affidavit filed by the petitioner. Under these circumstances, this Court is left with no other option except to accept all the contentions made by the petitioner through his counsel and to allow the Writ Petition.



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6. Accordingly, this Writ Petition is allowed as prayed for.

7. No costs.

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Index : Yes / No
NCC : Yes / No
CM

To,
The Assistant Executive Engineer
River Conservancy, Sub Division,
Musiri, Trichy District.



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BATTU DEVANAND, J.

CM

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