



W.P.(MD).No.3146 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.3146 of 2016

and

W.M.P.(MD).No.2757 of 2016

C.Gopal

... Petitioner

Vs.

1.The Director of Rural Development
and Panchayat Raj,
Panagal Building,
Saidapet, Chennai – 600 015.

2.The District Collector,
Trichirappalli District,
Trichirappalli.

3.The Personal Assistant to District Collector (Development),
District Collectorate,
Trichirappalli District,
Trichirappalli.

4.The Principal Secretary to Government,
Finance (Pay Cell) Department,
Fort St.George,
Chennai – 600 009.

... Respondents

*(R-4 is suo motu impleaded vide Court Order dated 19.04.2023 in
W.P.(MD).No.3146 of 2016)*



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the third respondent herein in Mu.Mu.No.9747/2014/Tha8 dated 25.01.2016, quash the same, further direct the respondents herein to disburse arrears of pension to the petitioner on the revised scale of pay of Rs.9300-34800+5100 with effect from 01.04.2013 as per the proceedings of the third respondent herein in Na.Ka.No.Th8/9747/2014 dated 07.04.2015.

For Petitioner : Mr.E.V.N.Siva

For Respondents : Mr.P.Thambidurai,
Government Advocate.

ORDER

This Writ Petition is filed to quash the order dated 25.01.2016 and further direct the respondents herein to disburse arrears of pension to the petitioner on the revised scale of pay of Rs.9300-34800+5100 with effect from 01.04.2013 as per the proceedings of the third respondent dated 07.04.2015.

2. The petitioner had retired from service as Block Development Officer on 30.06.2006 and receiving pension under PPO No.C223728/RD with effect from 01.07.2006. The Government issued 6th Pay Commission and implemented the same through G.O.Ms.No.235, Finance (Pay Cell) Department dated 01.06.2009 and made it notionally applicable from 01.01.2006 and with



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monetary benefits from 01.01.2007. The State Government issued separate G.O and revised pension to the retired employees. The employees, who retired during 01.01.2006 to 31.12.2008, were treated as pensioners. Accordingly, the petitioner's scale of pay was revised as Rs.9300-34800+4900. However, the revised scale of pay was wrongly fixed by awarding Grade Pay as Rs.4600 instead of Rs.4900/- and the arrears of revised pension was sanctioned to the petitioner in the revised scale of pay as Rs.9300-34800+4600. The contention of the petitioner is that in order to rectify several anomalies in fixing the revised scale of pay, the State Government constituted Pay Grievance Redressal Cell and implemented its recommendations vide G.O.Ms.No.242 Finance (Pay Cell) Department dated 22.07.2013, wherein the scale of pay for Block Development Officer is fixed as Rs.9300-34800+5100+Rs.1000 per month as special allowance. As per the above Government Order, the revision of scale of pay shall take effect from 01.01.2006/12.12.2007 as the case may be with monetary benefits from 01.04.2013. Based on the above, the petitioner submitted representation dated 23.03.2015 seeking to revise the scale of pay. The third respondent vide proceedings dated 07.04.2015 revised the scale of pay and monetary benefits from 01.04.2013. After about 9 months, the third respondent without issuing any notice, suddenly vide proceedings dated 25.01.2016 cancelled the revised pay fixation by awarding Grade Pay of Rs.5100/- stating



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that the said Grade Pay is applicable only from 12.12.2007. Aggrieved over the same, the present Writ Petition is filed.

3. The respondents have filed a counter stating that the date of effect of 01.01.2006 is applicable only to the downgraded posts such as Assistant Engineer, Assistant Executive Engineer and Executive Engineer vide G.O.Ms.No.71, Finance (Pay Cell) Department dated 26.02.2011. As per G.O.Ms.No.242 dated 22.07.2013, the revised scale of pay of Rs.9300-34800+5100 G.P.+1000 Special Allowance take notional effect from 12.12.2007 and monetary benefits from 01.04.2013 in the case of Block Development Officers for whom the scale of pay has been revised from 12.12.2007 as stated in G.O.Ms.No.234 dated 01.06.2009. Therefore, the respondents prayed to dismiss this Writ Petition.

4. Heard Mr.E.V.N.Siva, learned counsel appearing for the petitioner and Mr.P.Thambidurai, learned Government Advocate appearing for the respondents and perused the records.

5. The contention of the petitioner is that as per G.O.Ms.No.242 under clause-3, the Government Order states the revision of scale of pay shall take effect from 01.01.2006/12.12.2007 as the case may be with monetary benefit



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from 01.04.2013 and the relevant portion is extracted hereunder:

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“(3) The revision of scale of pay ordered above shall take notional effect from 01.01.2006/12.12.2007 as the case may be with monetary benefit from 01.04.2013. However, the excess payments, if any made to the employees so far shall be waived and the pay refixed in the appropriate scales of pay as ordered above”.

The learned counsel for the petitioner submitted that the aforesaid Government Order has stated two dates, but the respondents have deliberately taken the second date that is 12.12.2007 and there is no clarity in the said Government Order. Whenever a clause in the Government Order is advantageous to the employee, the same ought to be applicable. Moreover, any pay revision ought to be given effect from 01.01.2006. Therefore, subsequent date mentioned in the said clause lacks any application of mind without any reason. Therefore, the claim of the petitioner is 01.01.2006 ought to be the date which should be fixed uniformly to all persons. Therefore, the date 12.12.2007 cannot be taken into account. The respondents have deliberately left out the first date 01.01.2006 and taken 12.12.2007 in the petitioner's case. The petitioner is entitled to pay fixation from 01.01.2006 and monetary benefits from 01.04.2013.



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6. After hearing the arguments, this Court is of the considered opinion that the said clause as stated supra lacks clarity. There is no reasoning why the date 12.12.2007 is fixed. The counter states 01.01.2006 is applicable only to downgraded post. But no such reason is stated in any Government Orders. Therefore, this Court is of the considered opinion that the case ought to be reconsidered by the respondents. However, the appropriate authority is the Principal Secretary to the Government who issued G.O.Ms.No.242 (Finance (Pay Cell) Department) dated 22.07.2013. Therefore, this Court is *suo motu* impleading the Principal Secretary to Government, Finance (Pay Cell) Department, Fort St. George, Chennai – 600 009 as the respondent in this Writ Petition and directs the said authority to clarify the sub clause 3 in G.O.Ms. No.242 dated 22.07.2013. After clarification, if the petitioner is entitled to the same and the same shall be paid to the petitioner. If the said authority is coming to the conclusion that the petitioner is not entitled to, then the appropriate shall pass a speaking order setting out reasons and the copy of the order shall be forwarded to the petitioner. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order. The impugned order is quashed.



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7. In view of the above, this Writ Petition is allowed in above terms.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

19.04.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

- 1.The Director of Rural Development
and Panchayat Raj,
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- 2.The District Collector,
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Trichirappalli.
- 3.The Personal Assistant to District Collector (Development),
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S.SRIMATHY, J.

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