IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2024

CORAM:

THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

W.P.No.21019 of 2012

K.Natarajan ... Petitioner

Vs.

State of Tamil Nadu
Rep.by its Secretary,
(Finance) Pension Department,
Fort St.George,
Chennai-600 009. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 10.05.2010 in க.எண் 12870/ நிதித் (PGC) துறை 2009 and quash the same thereby directing the respondent to revise the pension par with the petitioners who retired between 01.01.1996 to 30.06.1996 and to extend the all benefits accrued thereon.

For Petitioner : Mr.A.R.Nixon

For Respondent : Mrs.C.Sangamithirai
Special Government Pleader

ORDER

The impugned Order dated 10.05.2010 in க.எண்.12870/ நிதித் (PGC) துறை 2009 passed by the respondent is under challenge.

2. The petitioner retired from service on 31.08.1997 from Udumalpettai Municipality as Junior Assistant and was drawing pension of Rs.1760/- + Rs.78/-. At the time of his retirement, his total pay was Rs.5635/-. The respondent fixed his basic pension at Rs.1039/- along with other benefits. He was receiving a sum of Rs.3238/-. He would further submit that based on the V Pay Commission, as per G.O.Ms.No.500, Finance (PC) Department, dated 16.09.1998, the basic pension has been fixed as Rs.2800/- and a sum of Rs.3214/- has been ordered. The revised total pay was fixed at Rs.6328/-. One Angusamy who retired from his office w.e.f.01.07.1995 has received pension of Rs.3238/- and he falls short of Rs.24/- which is not justifiable. The pensioners are given unequal treatment, and he may given the pension benefits in par with the persons retired between 01.01.1996 and 30.06.1996. Hence, this writ petition.

3. Heard Mr.A.R.Nixon, learned counsel appearing for the petitioner and Mrs.C.Sangamithirai, learned Special Government Pleader appearing for the respondents.

4. The learned Special Government Pleader would contend that as per G.O.Ms.No.174, Finance (PC) Department, dated 21.04.1998 revision was given effect to, by classifying the pensioners into three categories as given hereunder:

i) Persons retired prior to 1.1.1996

ii) Persons retired between 1.1.1996 and 30.06.1996

iii) Persons retired after 1.7.1996.

5. The learned Special Government Pleader would further contend that for each and every category, different procedure is to be followed for computing the pension.

6. The petitioner retired on 31.08.1997. Therefore, he would come under the third category person, retired after 01.07.1996. As per the Government Order, in respect of persons retired after 01.07.1996, their

pension is computed with reference to 50% of the last pay drawn or 50% of average emoluments for the last 10 months whichever is advantageous to him.

7. As far as the persons retired from 01.01.1996 to 30.06.1996, the pension was initially fixed in the pre-revised scale and again their pension has been refixed on the basis of the orders issued, revising the scale of pay with effect from 01.01.1996. For the persons who retired between 01.01.1996 and 30.06.1996, it was revised on par with those who retired before 01.01.1996 or after 01.07.1996 whichever is advantageous to them.

8. Therefore, revised order was issued in G.O.Ms.No.500, Finance (PC) Department, dated 16.09.1998 and G.O.Ms.No.740, Finance (PC) Department, dated 09.12.1998 treating the difference in emoluments as Personal Pension.

9. It is relevant to note that the Third Pay Commission has been implemented on 01.04.1978, the Fourth Pay Commission was implemented on 01.10.1984. Fifth Pay Commission was implemented on

01.06.1988. Sixth Pay Commission was implemented on 01.01.1996. Seventh Pay Commission was implemented on 01.01.2006 and the 8th Pay Commission was implemented on 01.01.2016. It is the prerogative of the State to fix the cut off date.

10. Therefore, the case of employees who retired between 01.07.1996 and 21.04.1998 shall not placed similar to those who retired between 01.01.1996 and 30.06.1996 (G.O.Ms.No.174, Finance (PC) Department, dated 21.04.1998). In this case, the petitioner would have migrated to the revised scale w.e.f. 01.01.1996 and he would draw enhanced pay eventually 50% of the last pay drawn or 50% of average emoluments for the last 10 months would definitely be higher than those retired before 01.01.1996 or those retired between 01.01.1996 and 30.06.1996. In such view of the matter, the impugned order does not suffer from any perversity.

11. The petition would come under the third category as per G.O.Ms.No.174, Finance (PC) Department, dated 21.04.1998. Therefore, based on the aforesaid discussions, there is no merits in the

case of the petitioner.

12. With the above observations, this writ petition stands dismissed. There is no order as to costs.

28.06.2024

Index : Yes / No
Neutral Citation Case : Yes / No
Speaking Order / Non-Speaking Order
ssn

To

The Secretary,
Government of Tamil Nadu,
(Finance) Pension Department,
Fort St.George,
Chennai-600 009.

R.KALAIMATHI, J.,

ssn

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