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W.P.Nos.23327 and 23791 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2024

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.23327 and 23791 of 2013

K.Subramaniam ... Petitioner in W.P.No.23327 of 2013

P.A.Rangapillai ... Petitioner in W.P.No.23791 of 2013

Vs.

1. The Government of Tamil Nadu,
Represented by Secretary to Government,
Revenue Department, Secretariat,
Chennai – 600 009.

2. The Additional Director of Survey and Settlement,
Survey House, Chepauk,
Chennai – 600 005.

3. The Assistant Director of
Survey and Land Records,
Salem District.

... Respondents in both W.Ps

Common Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to G.O.Ms.No.425 Revenue Department dated 27.11.2012 passed by the first respondent and quash the same in so far as it relates to not granting notional benefit for the purpose of increment and pensionary benefits



to the petitioner and further direct the first respondent to grant notional benefits of regularizing the service of the petitioner in the cadre of Field Surveyor from 28.03.1982 to 01.07.1984 for the purpose of increment and pensionary benefits.

In both Writ Petitions

For Petitioner : Mr.K.S.Viswanathan,
Senior Counsel for
M/s.T.Hemalatha

For Respondents : Mr.R.Neelakandan,
Additional Advocate General
assisted by Mr.G.Velu,
Additional Government Pleader

COMMON ORDER

These two writ petitions have been filed challenging G.O (Ms) No.425, Revenue N.e.A-3(2) Department, dated 27.11.2012, insofar as it relates to non-granting of notional benefits for the award of increments and pensionary benefits of the petitioner.

2. It is the case of the petitioners that though the benefit of seniority and retrospective regularization of services were granted in favour of the petitioners, the consequential benefit of notional fixation of pay and consequential revision of pension is not allowed by the impugned G.O (Ms)



No.425, Revenue N.e.A-3(2) Department, dated 27.11.2012 and such an action is amounting to denying the fruits of the Government Order to the petitioners, though their seniority was restricted.

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3. The learned Senior Counsel appearing for the petitioners contended that the petitioners are not claiming for payment of monetary benefits, consequent upon their regularization of their services on notional date, but they are only seeking fixation of pay by notionally taking into consideration the date of regularization in the post of 'Civil Surveyor' and subsequent further promoted posts, consequent upon regularization of their seniority.

4. In response to the notice issued by this Court, the respondents have filed a counter-affidavit stating that, taking into account the financial burden involved in the matter, the benefit of such revision of seniority is restricted to seniority and service benefits only without granting the monetary benefits.

5. As already noted above, the petitioners are not claiming for any monetary benefits or arrears of salary consequent upon the revision/regularization of seniority.



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6. Mr.R.Neelakandan, learned Additional Advocate General Pleader appearing for the respondents, by placing reliance on Paragraph No.17 of the counter-affidavit, categorically submitted that the fixation of pay consequent upon revision of seniority is not denied, but it is only the monetary benefits that were denied to the petitioners. Paragraph 11 of the counter-affidavit reads as under:-

“17. With reference to the averments made in Ground (d) of the affidavit, it is submitted that the petitioner was initially appointed in the consolidated pay post of Field Surveyor-Draftsman on contract basis on 04.12.1982. He was absorbed in the time scale post of Field Surveyor with effect from 28.03.1988 as per the procedure followed then. His services were regularised in the category of Field Surveyor with effect from 28.03.1988. The procedure followed then, has been modified in view of the implementation of the Order of Tamil Nadu Administrative Tribunal in O.A.199/90 dated 09.09.1991 and the order of Honourable Supreme Court of India, in C.A.926/2004 and the order of this Hon'ble Court, in W.P.No.10507 and 10508 of 2011 and his services were regularised in the category of Field Surveyor with effect from 01.07.1984. His date of regularisation in the category of Field Surveyor has been revised from 28.03.1988 to 01.07.1984 notionally and subsequently the date of regularisation in the higher post has also been revised notionally. Allowing monetary benefits consequent to the



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revision in the cadre Field Surveyor, to the petitioner, could open flood gates for large numbers of similar cases, involving, and huge exchequer to the Government. Hence the Government, in G.O.(Ms). No.425, Revenue Department, dated 27.11.2012, taking into account, the financial burden involved, restricted the benefit of revision of regularization to seniority and service benefits only and not granted any monetary benefits.”

7. In the light of the statement made in Paragraph No.17 of the counter-affidavit stating that the petitioners are granted seniority and service benefits only, the claim of the petitioners cannot be denied for notional fixation of pay and consequential revision of pension.

8. Accordingly, the writ petitions are allowed, directing the respondents to fix the pay of the petitioners notionally consequent upon the revision of seniority under G.O (Ms) No.425, Revenue N.e.A-3(2) Department, dated 27.11.2012 and also revise the pension payable to the petitioners accordingly.

01.10.2024

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No



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MUMMINENI SUDHEER KUMAR, J.

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To

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Revenue Department, Secretariat, Chennai – 600 009.
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Survey House, Chepauk, Chennai – 600 005.
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