



WEB COPY



W.P. Nos.29911 & 29912 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.29911 & 29912 of 2015

and

M.P.Nos.1 & 1 of 2015

S.Innacimuthu ... Petitioner in W.P.No.29911 of 2015

K.Perumal .. Petitioner in W.P.No.29912 of 2015

Vs.

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

2.The District Collector,
Ariyalur.

3.The Principal Accountant General (A&E)
Chennai – 600 018.

...Respondents in both W.Ps.

Prayer in both W.Ps: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the impugned order passed by the first respondent herein in G.O.Rt.No.247, Revenue (Services-8(2) Department dated 16.06.2014 and quash para-4 therein, so far as it grants minimum



pension to the petitioner from the date of issue of the impugned Government Order and consequently direct the first respondent herein to grant Minimum Pension to the petitioner herein from the date of petitioner's retirement (i.e. From 31.01.2007) .

In both W.Ps. For Petitioner : Ms.N.Banu Priya
For R1 & R2 : Ms.V.Yamuna Devi
Special Government Pleader
For R3 : Ms.T.S.Selvrani

COMMON ORDER

When the matter is taken up for consideration, it is brought to the notice of this Court by Ms.V.Yamuna Devi, learned Special Government Pleader that the learned counsel for the petitioner is no more and passed away a year back. However, this Court, after having perused the entire material on record is convinced that the issued raised in this writ petition is squarely covered by an order passed by different learned Judges of this Court in W.P.Nos.3025 of 2016 and 10018 of 2016 by orders dated 09.09.2022 and 13.03.2016 respectively.

2. In W.P.No.3025 of 2016, the coordinate bench of this Court having examined the matter at length dealt as under:

“9.Concession can never be claimed as a matter of



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right. In the present case, the husband of the petitioner and other similarly placed Village Administrative Officer, who have been granted minimum pension admittedly were not completed minimum qualified service of 10 years for grant of pension. Thus, as per the provisions of the Tamil Nadu Pension rules, 1978, the husband of the petitioner and other Village Administrative Officers were found not eligible for pension. However, the Government sympathetically considered the plight of the Village Administrative Officers, who have not completed 10 years of service and granted minimum pension by way of concession, more so, by relaxing Rule 43 of the Tamil Nadu Pension Rules, 1978. That being the factum, the Rule cannot be relaxed retrospectively for the purpose of grant of minimum pension from the date of retirement. Thus, the decision taken by the Government cannot be found fault with and the order impugned cannot be construed as perverse as it is only an extension of benefit by way of concession to the petitioner.”

In W.P.No.10018 of 2016, another coordinate bench of this Court held as under:

“11. Therefore, the petitioner's main prayer to sanction minimum pension from the date of his retirement.



In this connection, it is submitted that it is a policy decision of the Government and hence, the petitioner cannot question the policy decision of the Government.

12. Therefore, the question of invoking Article 226 of the Constitution of India, does not arise, as the petitioner was originally appointed as Village Karnam and after abolition of the post of Karnam by the Government on 14.11.1980, the petitioner lost his job and the petitioner was re-appointed as Village Administrative Officer. Therefore, the petitioner rendered service as Village Administrative Officer, only for about 8 years. The petitioner was paid pension for the above period as per law and the Rules in existence. However, the Government Order in G.O.Ms.No.158, 08.04.2015 took a sympathetic view and minimum pension was sanctioned with effect from 08.04.2015. The petitioner prayer is to sanction pension from 01.03.2010 till the date of retirement of the petitioner. Hence, the prayer of the petitioner is non-est in law.

13. Further, sanction of minimum pension is only a policy decision of the Government. The petitioner cannot questioning the policy decision of the Government and hence, the petitioner has no right to interfere with the administrative matters of the Government.



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14. Therefore, no interference is required in the impugned order passed by the first respondent. Hence, the above writ petition is liable to be dismissed.”

3. The petitioner herein is also claiming for payment of minimum pension from the date of retirement instead of the date of Government Order vide G.O.Rt.No.247, Revenue (Services-8(2) Department, dated 16.06.2014. As the issued is squarely covered by an order passed by the different coordinate bench of this Court, as noted above, the present writ petition is also liable to be dismissed and the same is accordingly, dismissed. The connected miscellaneous petitions, if any shall stand closed. No costs.

03.10.2024

Index : Yes/No
Speaking Order : Yes/No
dpa

To:

1.The Secretary to Government of Tamil Nadu,
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2.The District Collector,

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MUMMINENI SUDHEER KUMAR,J.

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