



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2024

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CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.6784 of 2016
and WMP.No.6048 & 6049 of 2016

K. Manickam

... Petitioner

Vs.

1. The Secretary to Government
Revenue (Service – 8(2) Department
Fort St.George, Chennai 600 009.
2. The Special Commissioner,
Revenue Administration,
Chepauk, Chennai 600 005.
3. The District Collector,
Salem District, Salem.
4. The Revenue Divisional Officer,
Attur, Salem District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, to issue Writ of Certiorarified Mandamus calling for the entire records relating to the impugned G.O issued by the 1st respondent in G.O.Ms.No.158, Revenue (Service – 8 (2)) Department, dated 08.04.2015 in so far relates to sanction the minimum pension from the date of G.O and quash the same and consequently direct the respondents to disburse the arrears of the minimum pension by calculating the minimum pension by taking note from the date of the petitioner retirement till 08.04.2015.



For Respondents : Mr.S.Arumugam
Government Advocate

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ORDER

This writ petition has been filed to call for the entire records relating to the impugned G.O issued by the 1st respondent in G.O.Ms.No.158, Revenue (Service – 8 (2)) Department, dated 08.04.2015 insofar as it relates to sanction of the minimum pension from the date of G.O and quash the same and consequently, direct the respondents to disburse the arrears of minimum pension by calculating the minimum pension from the date of the petitioner's retirement till 08.04.2015.

2. The case of the petitioner is that prior to the year 1980 he was working as Village Munsif and Karnam on temporary basis. In the year 1980 he was not given work and hence, he approached the Tamil Nadu State Administrative Tribunal and filed original application for absorbing him as Village Administrative Officer. Thereafter, as per the Tribunal's Order he was appointed as Village Administrative Officer in the year 2001. Later he was allowed to retire from service on attaining the age of superannuation on 30.11.2007.

3. The Government of Tamil Nadu issued various orders sanctioning minimum pension for the Village Administrative Officers, who had not completed 10 years of service. The Government while sanctioning minimum pension under various GO's sanctioned minimum pension from the date of retirement as VAO. But while sanctioning minimum pension to 184 retired VAO's including the Petitioner vide the



impugned GO, the Government directed the calculation of minimum pension from the date of issuance of the GO. The Petitioner stated that the Government was adopting different dates for similarly placed persons and thus was discriminating persons belonging to same class and therefore the impugned GO was illegal and arbitrary. It was stated that on the frequent requests of Village Administrative Officers, who had not completed 10 years of service, the 2nd respondent recommended sanctioning of minimum pension to them to the 1st respondent. Accordingly the Government considered the said recommendation of the 2nd respondent as well as the request of the retired Village Administrative Officers and issued G.O.Ms.No.158, Revenue (Service – 8 (2)) Department, dated 08.04.2015 sanctioning minimum pension to 184 Village Administrative Officers, who were appointed prior to 2003, and subsequently retired from service without completing 10 years of service by relaxing the pension rules. When the 1st respondent sanctioned the minimum pension under the impugned GO to the said 184 Village Administrative Officers including the petitioner herein, it was ordered that the minimum pension would be effective from the date of the said G.O. i.e., 08.04.2015. The Government while sanctioning minimum pension to the Village Administrative Officers, under the earlier G.O.Ms.No.148 dated 20/11/2011 though did not stipulate the effective date, the respondents construed the same as payable from the date of retirement and paid the minimum pension to the beneficiaries therein from the date of their retirement. The petitioner therefore submitted that impugned GO restricting the minimum pension from the date of the GO was discriminatory, illegal and arbitrary.



and hence deserved to be quashed. Hence the above writ petition.

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4. The respondents filed a counter. The respondents submitted that the petitioner was working as Temporary Munsif in various spells prior to 14.11.1980, and consequent to the promulgation of the ordinance abolishing the posts of village officers, he was retrenched on 14.11.1980. Thereafter on the basis of the liberalised concession policy adopted by the Government in the matter of appointment of Village Officers, the petitioner was appointed as Village Administrative Officer. As per Rule 43 of the Tamil Nadu Pension Rules, 1978, retired Government servants, who completed the qualifying service of not less than 10 years, were eligible for pension. It was submitted that the Government of Tamil Nadu, on humanitarian consideration, relaxed rule 43 of the Tamil Nadu Pension Rules, 1978 and ordered that the Village Administrative Officers, including the petitioner, would be sanctioned minimum pension even though they had not completed 10 years of service. As the petitioner had not completed 10 years of service, he was eligible for minimum pension only from the date of issue of order. According to the respondents, the petitioner could not challenge the effective date of the G.O. as it was a policy decision of the Government. The G.O. reflected the policy decision of the Government and so the petitioner could not claim the concession as a matter of right.

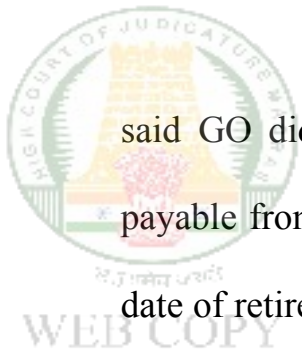
5. It was further submitted that out of 199 Village Administrative Officers for whom minimum pension was sanctioned under G.O.Ms.No.148, Revenue Department, dated 20.04.2011, some of them were given arrears of minimum pension



from the date of retirement to the date of issue of G.O. by mistake and steps were being taken to recover the arrears amount paid. Though the petitioner was given minimum pension only from the date of issue of G.O. he was given special pension as per G.O.Ms.No.828, Rev (E.Spl.I) Department dated 23.08.1996 with effect from 05.12.1986, the date on which W.P.No.11773/1996 was filed in this Court. In the impugned G.O.Ms.158 Revenue (Ser.8(2)] Department, dated 08.04.2015, the name of the petitioner was included in Sl.No.149 in the annexure to the Government order. As both the G.O's took effect prospectively, there was no discrimination as alleged by the petitioner. The respondents therefore prayed for the dismissal of the writ petition.

6. Heard both sides and perused the materials available on record.

7. Initially the Government issued G.O.Ms.No.678 dated 16.11.2007 sanctioning minimum pension for Village Administrative Officers who did not complete 10 years of service by calculating the minimum pension from the date they lost their jobs i.e, on 14.11.1980, till their retirement. The said Village Administrative Officers were benefited as the pensionable service was calculated from 14.11.1980 even though they were reappointed in the year 2000-2001 only. The Government issued G.O.Ms.No.148 dated 20/4/2011 sanctioning minimum pension to VAO's who did not complete 10 years of service and who approached the Court for minimum pension by including VAOs who did not approach Court. Though the



said GO did not stipulate the effective date, the respondents understood it to be payable from the date of retirement and so the minimum pension was paid from the date of retirement and the arrears were also paid. It was only under the impugned GO that the payment of minimum pension was restricted from the date of GO. As far as G.O.Ms.No.148 dated 20.04.2011, was concerned though the respondents contented that it was prospective they nevertheless admitted that they interpreted the same as being payable from date of retirement and mistakenly paid the same to VAO's from the date of retirement along with arrears. The respondents further stated that realising their mistake they proposed to take steps to recover the excess payment made under the said G.O. The respondents attempted to justify the impugned G.O. by stating that the fixation of the effective date of payment was a policy decision and so the same cannot be challenged and that there was no discrimination as alleged by the petitioner. It is trite that a policy decision should not be arbitrary and discriminatory. When all the retired VAO's belonged to one and the same class, the Government cannot adopt different yardsticks for one set of retirees and another for others. When all the VAO's who had not completed 10 years of service under the prior GOs were paid arrears calculating the minimum pension from the date of retirement, there is absolutely no justification for denying the same benefit to the petitioner. Any policy decision should be fair and reasonable and not arbitrary. More over no reasons are assigned for restricting the effective date of the impugned G.O. It is pertinent to note here that it is settled law that reasons are heart beat of administrative decisions. As regards the contention that there was no discrimination is concerned, I find that the



said contention is not supported by the records. All through, the VAO's who did not complete 10 years of service were paid benefits either from the date of abolition of posts or from date of retirement. Even in case of VAOs, who were covered by G.O.Ms.158, though no effective date was given, still the respondents themselves interpreted the same as payable from date of retirement. Albeit, the respondents tried to explain that steps were taken to recover the excess payment, but there is no proof to support the same. I therefore find that the effective date fixed under the impugned GO has no legs to stand. Hence the impugned GO in so far as it relates to sanctioning the minimum pension from the date of the GO cannot be sustained as it discriminates similarly placed persons and hence is violative of the constitutional right to equality.

8. In view of the above factual matrix of the case, this Court is of the considered view that the impugned G.O issued by the 1st respondent in G.O.Ms.No.158, Revenue (Service – 8 (2)) Department, dated 08.04.2015 insofar as it relates to sanctioning the minimum pension from the date of G.O is liable to be quashed and the same is quashed.

9. In the result, this writ petition stands allowed and the respondents are directed to disburse the arrears of minimum pension, by calculating the minimum pension from the date of the petitioner's retirement till 08.04.2015, the date of GO.Ms.No.158, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is also closed.



14.08.2024

dpq

Index : Yes /No

Speaking Order : Yes/No

N. MALA, J.

dpq

To

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