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W.A.Nos.2712, 2713 and 1518 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

Writ Appeal Nos.2712, 2713 and 1518 of 2021
and
C.M.P.Nos.17613 and 17615 of 2021

W.A. No.2712 of 2021
and
W.M.P. No.17615 of 2021

Tamil Nadu Retired Officials' Association,
represented by its General Secretary,
and affected Members of affiliated Associations,
D.P.I. Campus, College Road,
Chennai-600 006.
Appellant

... Petitioner /

Vs.

1. The State of Tamil Nadu,
represented by the Principal Secretary to Government,
Finance (PGC) Department,
Secretariat, Fort St. George,
Chennai-600 009. Respondent / Respondent
2. Dindigul District Pensioners' Association,
represented by its President
Collectorate Compound, Dindigul – 624 001.
3. Government Pensioners' Association,
represented by its President,



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'Tiruvarul', 5/5, Shanmugasigamani Nagar,
Kovilpatty.

... Respondents / Petitioners 2 to 3

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W.A. No.2713 of 2021

and

W.M.P. No.17613 of 2021

Pensioners' Association, Chengalpattu
represented by its President,
S. Ammalu,
55/29, Bharathiyar Street,
Chengalpattu – 603 001.

... Third Party / Appellant

Vs.

1. Tamil Nadu Retired Officials' Association,
represented by its General Secretary,
and affected Members of affiliated Associations,
D.P.I. Campus, College Road,
Chennai-600 006.

2. Dindigul District Pensioners' Association,
represented by its President
Collectorate Compound, Dindigul – 624 001.

3. Government Pensioners' Association,
represented by its President,
'Tiruvarul', 5/5, Shanmugasigamani Nagar,
Kovilpatty.

.... Petitioners / Respondents

4. The State of Tamil Nadu,
represented by the Principal Secretary to Government,
Finance (PGC) Department,
Secretariat, Fort St. George,
Chennai-600 009.

... Respondent / 4th Respondent

Prayer common in W.A. Nos.2712 and 2713 of 2021: Writ Appeals filed



W.A.Nos.2712, 2713 and 1518 of 2021

under Clause 15 of Letters Patent to set aside the order dated 15.05.2020
made in W.P.No.12868 of 2015.

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W.A. Nos.2712 & 2713 of 2021

For Appellant : Mr.P. Vishnumanokaran
for Mr. Rahul Balaji

For Respondents : No appearance.

W.A. No.1518 of 2021

1. R. Somasundaram
2. A.S.Kaliyamoorthy,
Azhankathan Village & Post,
Kattumannarkoil Taluk,
Cuddalore District.
3. S. David.
4. O.R. Kaliyamoorthy
5. S. Mariyaprakasam
6. P. Janakiraman
7. M. Balasubramaniyan
8. L. Parthasarathy
9. R.T. Rajan
10. A.L. Mohamed Nazeer
11. A. Ponnurangan
12. R.S. Sundaram
13. R. Manickam
14. N. Chakrapani
15. S. Gajalakshmi
16. R. Lourduswamy
17. R. Venugopal
18. U.B. Lional



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19. N. Gnanavel
20. M. Dhanaraj

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21. R. Ramalingam
22. C. Devarajan ... Appellants

Vs.

1. The State of Tamil Nadu,
represented by the Principal Secretary to Government,
Finance (PGC) Department,
Secretariat, Fort St. George,
Chennai-600 009.
2. The Commissioner of Treasuries and Accounts,
Nandanam near Veterinary Hospital,
Nandanam, Chennai.
3. The Treasury Officer,
Cuddalore District. ... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 15.05.2020 made in W.P.No.3864 of 2015.

For Appellants : Mr. A.R. Nixon

For Respondents : Mr. R. Neelakandan
State Government Counsel

COMMON J U D G M E N T

(Judgment of the Court was delivered by S.M.SUBRAMANIAM, J.)

A set of Writ petitions have been instituted challenging the



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Government Order issued in G.O. Ms. No.363 Finance (PGC) department dated 23.08.2013. Another set of Writ petitions were filed seeking correct implementation of the Government Order issued in G.O. Ms. No.363 Finance (PGC) department dated 23.08.2013.

2. With reference to the G.O. Ms. No.363 Finance (PGC) department dated 23.08.2013, the said order has been passed by the Government implementing the orders of Hon'ble Supreme Court of India dated 17.01.2013 in Civil Appeal No.8848 to 8870 of 2012 filed by Kallakurichi Taluk Retired Official Association and other Associations.

3. Fixing of slab in dearness allowance was the issue raised by the retired government employees who retired from service prior to 01.05.1988. The Courts have held that fixing slab system for grant of dearness allowance was improper and accordingly allowed the Writ petitions and consequently those retired prior to 01.05.1988 were granted revised pensionary benefits and pension. Subsequently, the retirees from 01.06.1988 to 31.12.1995 also claimed the dearness allowance benefits. The present Writ petitions were disposed of and the matter was taken by way of an appeal upto Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India disposed of



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the Civil Appeals on 17.01.2013. The Government implemented the order of

the Hon'ble Supreme Court of India as follows:-

“ 14. After careful consideration, the Government has decided to implement the orders of the Hon'ble Supreme Court of India, by extending the benefit of the orders issued in the reference ninth read above, to those who retired on or after 01.06.1988 upto 31.12.1995 with reference to the pre-revised scales of pay (i.e scales of pay that existed prior to 01.06.1988). Accordingly, Government direct that:

(i) the pensioners who have retired between 01.06.1988 and 31.12.1995 shall be permitted to compute average emoluments notionally for the calculation of pension based on the Fourth Tamil Nadu Pay Commission scales of pay and with reference to the Dearness Allowance and Additional Dearness Allowance applicable in the pre-revised scale of pay sanctioned from time to time as Dearness Pay for the entire 10 months preceding retirement.

(ii) further, such of the pensioners who retired between 01.06.1988 and 31.12.1995 shall have the option to opt for the above formula or to retain the current pension, whichever is advantageous to them;

(iii) if the option is exercised for the pre-revised scale to calculate the pension, the excess pay and allowances and terminal benefits, if any, drawn by them in the revised scale of pay prior to their retirement shall be waived as a special case. To



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this effect, necessary amendment to Rule 30 of the Tamil Nadu Pension Rules, 1978 will be issued separately.

15. As the revision of pension ordered above is based on the option to be exercised by the pensioners retired to their advantage, the above orders shall be eligible to all those pensioners retired between 01.06.1988 and 31.12.1995 and who are alive on the date of issue of this order. In the case of employees retired between 01.06.1988 and 31.12.1995, such retirees opting for the benefit ordered in para 14 above, the pay of such employees shall be regulated in the Fourth Tamil Nadu Pay Commission scales of pay (pre-1988 pay scale) by the pay fixing authorities notionally where the employees last served. After revising the pay of such employees the proposals for pension / family pension revision of the above retired employees shall be forwarded by the Departmental Officers directly to the office of the Accountant General for authorising the entitled pension. Such pensioners are also entitled for the subsequent pension revisions ordered in G.O. Ms. No.174, Finance (Pay Cell) Department dated 21.04.1998 and G.O. Ms. No.235, Finance (Pay Cell) Department, dated 01.06.2009 which shall be done by the Treasury Officers / Sub Treasury Officers / Pension Pay Officer concerned.

16. The applicable rates of Dearness Allowance at the rate of 608 points of All India Consumer Price Index and Additional Dearness Allowance admissible from time to time along with illustration are appended to this order”.



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The grievances of the Writ petitioners are that the said Government order has not been implemented properly. The learned counsel appearing for the appellants would vehemently contend that the benefits extended under G.O. Ms. No.363 Finance (PGC) department dated 23.08.2013 is not proper and the authorities have not extended the benefits as directed by the Hon'ble Supreme Court of India. The calculations made by the Pay and Accounts Office and the respective Treasuries are not in accordance with the Government order passed to implement the order of the Hon'ble Supreme Court of India. We cannot re-adjudicate the issues already decided by the Hon'ble Supreme Court of India.. The issues are related to the retired employees, who retired from service in between 01.06.1988 and 31.12.1995. The Government Order in G.O. Ms. No.363 was issued in the year 2013 and thereafter, the revision of the pension was made pursuant to further pay Commissions also.

4. In view of the facts and circumstances, the order passed implementing the judgment of the Hon'ble Supreme Court of India cannot be interfered with by this Court and more so, the Hon'ble Supreme Court's order



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has been implemented by the Government and if at all any error committed by the Treasury officers or Pay and Accounts Office in calculating the benefits, it is for the aggrieved individual pensioners to approach the Treasury officer or Pay & Accounts Officer concerned for necessary clarifications or to verify the correctness of the fixation made with reference to the Government Order issued in G.O. Ms. No.363 Finance (PGC) department dated 23.08.2013. Therefore, the relief as such sought for in the Writ petitions and Writ appeals cannot be granted by this Court and consequently all the Writ appeals are disposed of. It is needless to state that the fixation of pension or revision of pension made in accordance with the pay rules and Government orders in force, need not be reduced.

5. With the above discussion, this Writ Appeal stands disposed of. No costs. The connected miscellaneous petition are closed.

[S.M.S.J.] [C.K.J.]
14.06.2024

Index : Yes/No
Speaking Order : Yes/No



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Neutral Citation : Yes/No

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represented by the Principal Secretary to Government,
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Nandanam near Veterinary Hospital,
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6. The Treasury Officer,

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Common Judgment in
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