



W.A(MD)No.217 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.07.2024

CORAM

**JUSTICE N.SESHASAYEE
AND
JUSTICE P.VADAMALAI**

W.A(MD)No.217 of 2019

S.Manickam

.... Appellant/Petitioner

Vs.

1.The Principle Secretary to Government,
Finance (Pay Cell) Department,
Government of Tamilnadu,
Chennai – 09.

2.The Account General (A & E) Tamilnadu,
No.361, Anna Salai,
Chennai – 600 018.

3.The District Educational Officer,
District Educational Office,
Sivagangai District.

4.The Treasury Officer,
Sivagangai,
Sivagangai District.

5.The Secretary,
S.B.D.V. High School,
Sholapuram – 630 557,
Sivagangai District.

... Respondents/Respondents



W.A(MD)No.217 of 2019

Prayer:- Writ Appeal is filed under Clause 15 of Letter Patent, to set aside the order of this Court made in W.P(MD)No.22871 of 2018, dated 23.11.2018.

For Appellant	: Ms.N.Juliet Latha
For R1 & R4	: Mr.Shaji Bino Special Government Pleader
For R2	: Mr.P.Gunasekaran
For R3	: Mr.D.Sadig Raja Additional Government Pleader
For R5	: No Appearance

JUDGMENT

(Judgment of the Court was delivered by P.VADAMALAI, J.)

This Writ Appeal is preferred by the petitioner in W.P.(MD)No.22871 of 2018 challenging the order, dated 23.11.2018 passed by the learned Single Judge of this Court dismissing the Writ Petition.

2. The facts are minimal and they are stated as below:

(i) The petitioner S.Manickam was working as a Secondary Grade Teacher in the 4th respondent's school namely S.B.D.V. High School,



W.A(MD)No.217 of 2019

Sholapuram, Sivagangai District. He joined service on 11.03.1985 and retired on 30.04.2007. He had drawn last pay at Rs.7,650/-, on that basis his pension was fixed at Rs.4,208/- from 01.05.2007. After implementation of pay commission as per G.O.Ms.No.234, Finance (PC) Department, dated 01.06.2009 his pension pay was revised from Rs.4,208/- to Rs.7,000/-. On the recommendation of the official commission, G.O.Ms.No.235, dated 01.06.2009 was passed by the Government by further revising the pension and family pension w.e.f. 01.01.2006. As per clause 2(ii) of that G.O., the petitioner sent representation to the respondents for revising his pension. But his representation was rejected on the ground that the said G.O.235 is applicable to only those who had retired prior to 01.01.2006, whereas it is not applicable to the petitioner as he retired on 30.04.2007 by way of reply dated 02.05.2018 by the 2nd respondent. Hence, the petitioner moved the Writ Petition in W.P(MD)No.22871 of 2018 before this Court under Article 226 of the Constitution of India to quash the said reply dated 02.05.2018 and reconsider the petitioner's representation.

(ii) The learned Single Judge took the view that the reply 02.05.2018 sent by the 2nd respondent is correct as the G.O.Ms.No.235 is



W.A(MD)No.217 of 2019

applicable to those who retired prior to 01.01.2006 and thereby dismissed the Writ Petition.

3. The order of the learned Single Judge is now under challenge, at the instance of the petitioner in the Writ Petition.

4. The learned counsel for the appellant/petitioner submitted that as per the G.O.Ms.No.235, the pension and family pension was further revised with effect from 01.01.2006 to all existing pensioners and as per clause 2(ii) of the said G.O. and clause 2(vi) of the said G.O. The clause 2(vi) of the said G.O is applicable to those who retired after 01.01.2006 and also applicable to the post as on 01.01.2006. The appellant worked as a special grade teacher from 11.03.2005 and so he was in such post as on 01.01.2006. The learned Single Judge has not considered these aspects and so, the learned Single Judge ought to have appreciated the G.O and also not ought to have appreciated the impugned reply dated 02.05.2018 of the 2nd respondent.



W.A(MD)No.217 of 2019

WEB COPY

5. The learned Additional Government Pleader for the respondents contended that the petitioner retired on 30.04.2007 and the G.O is applicable to those retired prior to 01.01.2006 and as per G.O, the pension has to be revised from 01.01.2006, and hence the impugned reply of the 2nd respondent is correct and the order of the learned Single Judge need not be set aside.

6. We have heard the learned counsel appearing for the respective parties.

7. It is admitted that the appellant was working as a Secondary Grade Teacher and retired on 30.04.2007 on superannuation. It is also undisputed that as per G.O.Ms.No.234, Finance (PC) Department dated 01.06.2009 his pension pay was revised from Rs.4,208/- to Rs.7,000/-. The appellant submitted an application seeking revision of his pension pay as per G.O.Ms.No.235, Finance (PC) Department, dated 01.06.2009, which was returned by the 2nd respondent through a letter in P24/I/AG102/10402, dated



W.A(MD)No.217 of 2019

02.05.2018 by mentioning that the said G.O is applicable to the existing pre-2006 pensioner/family pensioner i.e., to those who had retired prior to 01.01.2006. On perusal of the G.O. Ms.No.235, clause 2(ii) reads as follows:-

“2(ii) The Pension/Family Pension of the existing pre-2006 Pensioners/Family Pensioners shall be computed by adding the following:-.....”

The appellant mainly rely on clause 2(vi) of the said G.O. which reads as follows:-

“2(vi) The fixation of pension shall be subject to the provision of that the revised pension in no case shall be lower than fifty percent of the minimum of the pay in the pay band plus grade pay corresponding to the pre-revised pay scale from which the petitioner had retired. In the case of pensioners/family pensioners for whom pension/family pension has to be revised beneficial to them at 50% / 30% of the minimum of the Pay + Grade Pay applicable to the post as on 01.01.2006, such of the pensioners/family pensioners shall apply to the pension sanctioning authorities through the



W.A(MD)No.217 of 2019

department they last served in prescribed form appended to this order. The authorities concerned shall revise both the pension and family pension of the existing pensioners.”

From the above, it is very clear that the pension/family pension of the existing pensioners as on 01.01.2006 shall be computed. The appellant would not be deemed as existing pensioner as on 01.01.2006. Moreover, the pay of the appellant has been revised on the date of his retirement i.e., on 30.04.2007 and pension has also been revised w.e.f. 01.05.2007 as per G.O.Ms.No.234 Finance (PC) Department, dated 01.06.2009, which is not disputed by him. Hence, the order of the learned Single Judge accepting the return of the 2nd respondent, dated 02.05.2018 is not unjust since the G.O.No.235 is not applicable to the appellant who retired on 30.04.2007 after 01.01.2006. So, the appellant is not existing pre-2006 pensioner. The appellant has not showed any other material that the G.O. would be applicable to him. Therefore, the order of the learned Single Judge would not be against the appellant. Therefore, this Court is not inclined to accept the submissions as canvassed by the learned counsel for the appellant.



W.A(MD)No.217 of 2019

WEB COPY

8. In conclusion, this Court agrees with the line of reasoning of the learned Single Judge and confirms his order.

9. Accordingly, this Writ Appeal fails and the same stands dismissed. The order of the learned Single Judge, dated 23.11.2018 in W.P.(MD)No. 22871 of 2018 is confirmed. No costs.

(N.S.S.,J.) (P.V.M.,J.)
23.07.2024

Index : Yes/No
Internet : Yes/No
VSD



WEB COPY



W.A(MD)No.217 of 2019

To

- 1.The Principle Secretary to Government,
Finance (Pay Cell) Department,
Government of Tamilnadu,
Chennai – 09.
- 2.The Account General (A &E) Tamilnadu,
No.361, Anna Salai,
Chennai – 600 018.
- 3.The District Educational Officer,
District Educational Office,
Sivagangai District.
- 4.The Treasury Officer,
Sivagangai,
Sivagangai District.
- 5.The Secretary,
S.B.D.V.High School,
Sholapuram – 630 557,
Sivagangai District.



WEB COPY



W.A(MD)No.217 of 2019

N.SESHASAYEE, J.
AND
P.VADAMALAI. J.

VSD

Judgment made in
W.A(MD)No.217 of 2019

23.07.2024