



W.P(MD).No.14969 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 22.07.2024

Pronounced on : 27.08.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P(MD)No.14969 of 2024
and WMP(MD)No.13118 of 2024

D.Arumugam

... Petitioner

Vs.

1.The Commissioner of Social Welfare,
Directorate of Social Welfare,
Panagal Building,
2nd Floor, Saidapet,
Chennai- 600 015.

2.The Accountant General (A&E),
Office of the Principal Accountant General,
Teynampet,
Chennai-18.

3.The District Collector,
through his P.A(Noon Meal Scheme),
Tirunelveli District,
Tirunelveli.

4.The Block Development Officer,
Palayamkottai Panchayat Union,
Tirunelveli.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of



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India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 4th respondent, rejecting the petitioner's claim in his proceedings in Na.Ka.No.A4/680-2023 dated 23.01.2024 and quash the same and directing the respondents to pay 3% increment in salary after completion of 30 years of service as per G.O.Ms.No.38 of Social Welfare Department to till date with arrears and monetary benefits and to pay revised pension to the petitioner.

For Petitioner : Mr.T.Selvan

For Respondents : Mr.S.Shanmugavel

Additional Government Pleader
for R1 & R3

: Mr.S.Kameshwaran

Government Advocate for R4

: Mrs.S.Mahalakshmi

Standing Counsel for R2

ORDER

Heard Mr.T.Selvan, learned counsel for the petitioner, Mr.S.Shanmugavel, learned Additional Government Pleader for the respondents 1 & 3, Mr.S.Kameshwaran, learned Government Advocate appearing for the 4th respondent and Mrs.S.Mahalakshmi, learned



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Standing Counsel appearing for the 2nd respondent.

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2. The petitioner has filed this writ petition to quash the order passed by the 4th respondent rejecting the petitioner's claim in his proceedings in Na.Ka.No.A4/680-2023 dated 23.01.2024 and further to direct the respondents to pay 3% increment in salary after completion of 30 years of service to till date with arrears and monetary benefits and to pay revised pension to the petitioner as per G.O.Ms.No.38, Social Welfare and Nutritious Meal Programme Department dated 30.04.2015.

3. The petitioner was initially appointed as Noon Meal Organiser and joined duty on 06.05.1983 in the Ganesamoorthy Middle School, Keelaveeraragavapuram, Palayamkottai, Tirunelveli District and retired on 31.03.2014. As per G.O.Ms.No.38, Social Welfare and Nutritious Meal Programme Department, dated 30.04.2015, the Government sanctioned 3% special increment after completion of 10 years of service and another 3% special increment after completion of 20 years of service. The petitioner is entitled to another 3% increment as he has completed 30



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years of service. But the same was not given to the petitioner. Since the petitioner's representation was not considered, he has filed W.P.(MD)No. 27310 of 2022 and on direction of this Court, the first respondent clarified through an order dated 10.11.2023 that the petitioner has retired before the issuance of the G.O.Ms.No.38 dated 30.04.2015 and hence he is not entitled to increment as per the guidelines issued in the above Government Order. The petitioner has given another representation stating that even before his retirement, he had completed 31 years of service. But the 4th respondent has passed an order dated 23.01.2024 by rejecting his claim. Hence, the petitioner filed this writ petition challenging the order dated 23.01.2024.

4. There is no doubt about the entitlement of Noon Meal Organisers to get stagnation increment of 3% increment on completion of 10 years/20 years/30 years of service. So far as this petitioner is concerned, he has retired from service on 31.03.2014. But the G.O.Ms.No.38 dated 30.04.2015 has been issued for sanctioning one increment due to stagnation without any promotion



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even after completing 30 years of service.

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5. There is no quarrel about the fact that the petitioner has completed 31 years of service at the time of his retirement. However, his superannuation came on 31.03.2014 before the issuance of the said Government Order. In the above G.O.Ms.No.38 dated 30.04.2015, a reference has been shown about the letter received from the Commissioner of Social Welfare Department dated 21.04.2016. But the above Government Order appears to have been anti-dated. In other words, if the clarificatory note of the Commissioner has been received only on 01.04.2016, the Government Order could not have been issued on the previous date itself. However, it might be due to typographical error. Strangely the said Government Order did not state anything about the date from which the said Government Order would come into effect.



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6. In the absence of any specification about the date, normally the Government Orders will be given effect from the date on which it has come into force. However, if the benefit of G.O.Ms.No.38 dated 30.04.2015 has to be given effect from the date of the said Government Order, then the employees, who continue to be in service would get the benefit, and further, the services of the employees, who had completed 30 years of service on the date when the Government Order was issued, could also be counted for that purpose and they also entitled to get the benefit.

7. In such case, it would make a difference between those persons who have been in service but completed 30 years and the persons who had retired from service after completing 30 years. In other words, so far as the completion of 30 years service is concerned, that can be reckoned to a date even prior to the date of issuance of the Government Order. In such type of reliefs, what is very important is not the date of issuance of the Government Order, but the completion of 30 years of service. In the absence of any bar



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to give such benefit to those persons who had already retired from service after completing 30 years, I feel the above benefit can be extended to them also atleast notionally just for revising their pensionary benefits.

8. In the result, this writ petition is **allowed** and the impugned order passed by the 4th respondent in Na.Ka.No.A4/680-2023 dated 23.01.2024 is set aside. The 4th respondent is directed to give notional effect for the increment from the date of completion of 30 years till the date of retirement but by giving pensionary benefits to the petitioner and pass orders for refixing the pension accordingly and send a proposal for refixing the pension within a period of two weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

27.08.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
PJJ



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R.N.MANJULA ,J.

PJL

**Order in
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