



W.P. Nos. 12113 & 12114 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.02.2025

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CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. Nos. 12113 & 12114 of 2015

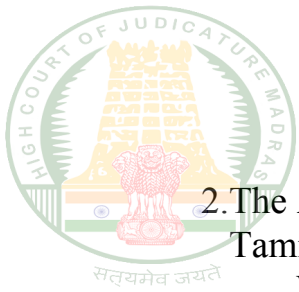
W.P. No. 12113 of 2015

- 1.S. Nagarathinam
- 2.S. Vallinayagam
- 3.R. Esakki
- 4.K. Subramanian
- 5.T.S. Meenkshisundaram
- 6.R. Sankaralingam
- 7.M. Shumsudin
- 8.P. Ponnambalam
- 9.S. Muthiah
- 10.P. Rajamoney
- 11.E. Perinbam
- 12.Pooranam
- 13.M. Meenakshisundaram
- 14.A.R. Veerabaghu
- 15.A.N. Abdul Subhahan
- 16.A.N. Mohammed Kasim
- 17.P. Shanmugam

...Petitioners

Versus

- 1.Government of Tamil Nadu,
Represented by its
Principal Secretary to Government,
Finance (PGC) Department,
Secretariat, Chennai – 600 009.



2. The Accountant – General (A&E),
Tamil Nadu, Chennai – 600 018.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Declaration, to declare that Para 14(i), Para 14(ii) and Para 15 of G.O.Ms.No.363, Finance (PGC) Department dated 23.08.2013 passed by the first respondent is violative of the judgment dated 17.01.2013 in Civil Appeals Nos. 8848-8849/2012 etc batch and consequently direct the first respondent to modify the same as follows: (i) in para 14(i) thereof the V Pay Commission scales of pay may be ordered to be adopted instead of Fourth Pay Commission, (ii) in para 14(ii) instead of computing the average emoluments notionally, Rule 30 of the Tamil Nadu Pension Rules 1978 to be followed, (iii) to adopt the V Pay Commission Scales of Pay, with the DA and ADA sanctioned from time to time during 01.06.1988 to 31.12.1995, (iv) to modify Para 15 in conformity with para 7 of G.O.Ms.272, Finance (Pension) Department dated 15.06.1998 and (v) to sanction payment of DCRG to the petitioner for the difference of pension as per V Pay Commission scales of pay.

For Petitioners : Mr. S. Mohamed Shabib
for Mr. M. Ravi

For Respondents : Mr. R. Kumaravel, for R1
Additional Government Pleader
No Appearance for R2

W.P. No. 12114 of 2015

- 1.K. Karuppiah
- 2.K. Ramasamy
- 3.K. Therese
- 4.V.P. Mariappan



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5.S. Renganathan
6.A. Arumugaperumal
7.Poornathai Samuel
8.P.S. Selvaraj
9.G. Kasthuri Bai
10.M. Murugeswari
11.S. Rajamani
12.R. Somasundaram
13.S. Sankarasubbu

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of G.O.Ms.272, Finance (PGC) Department dated 15.06.1998, (v) to sanction payment of DCRG to the petitioner for the difference of pension as per V Pay Commission scales of pay.

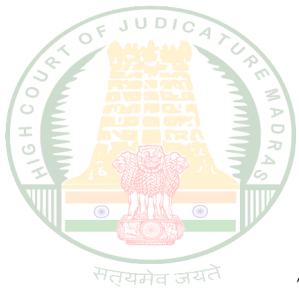
For Petitioners : Mr. S. Mohamed Shabib
for Mr. M. Ravi

For Respondents : Mr. R. Kumaravel, for R1
Additional Government Pleader
No Appearance for R2

COMMON ORDER

These Writ Petitions are listed for arguments after it has been listed and adjourned on several previous occasions. Initially, these Writ Petitions were filed in the year 2015. In these Writ Petitions, the petitioners have prayed for the following relief: -

“to declare that Para 14(i), Para 14(ii) and Para 15 of G.O.Ms.No.363, Finance (PGC) Department dated 23.08.2013 passed by the first respondent is violative of the judgment dated 17.01.2013 in Civil Appeals Nos. 8848-8849/2012 etc batch and consequently direct the first respondent to modify the same as follows: (i) in para 14(i) thereof the V Pay Commission scales of pay may be ordered to be adopted instead of Fourth Pay Commission, (ii) in para 14(ii) instead of computing the average emoluments notionally, Rule 30 of the Tamil Nadu Pension Rules 1978 to be followed, (iii) to adopt the V Pay Commission Scales of Pay, with the DA and ADA sanctioned from time to time during 01.06.1988 to 31.12.1995, (iv) to modify Para 15 in conformity with para 7 of G.O.Ms.272, Finance (Pension) Department dated 15.06.1998 and (v) to sanction payment of DCRG to the petitioner for the difference of pension as per V Pay Commission scales of pay”.

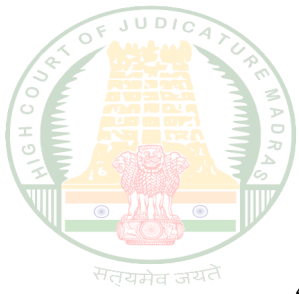


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2. Even though it is informed by the learned counsel for the Petitioners that some of the Petitioners have died during the pendency of these Writ Petitions and therefore, their Legal Heirs have to be impleaded, it is noticed that this Court has already upheld the vires of the impugned Government Order by a detailed Common Order in a batch of Writ Petitions vide Order dated 15.05.2020 in W.P.No.4874 of 2014 and batch in **Cuddalore District Retired Officials Association rep., by its President and Others vs. State of Tamilnadu rep., by its Principal Secretary to the Government Finance (PGC) Department and another** (the Respondents herein).

3. The prayer in one of the Writ Petitions from the aforesaid batch of Writ Petitions is reproduced below: -

“Prayer in W.P.No.24908 of 2014, 577 of 2015: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari Mandamus, to call for the records on the file of the 1st respondent in its Letter No. 61495 (MS) / PGC/2013 Finance (PGC) Dept., dated 04.02.2014 and quash the same and consequently direct the respondents to revise the petitioner pension as per G.O.Ms.No.363 dated 23.08.2013 based on the judgment of the Apex Court.”



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4. Operative portion of the Common Order dated 15.05.2020 of this

Writ Court in the aforesaid case reads as below: -

“49. The next limb of argument of the petitioners is that the benefit of the impugned G.O., confined only to those pensioners who were alive on the date of issuance of the Government Order and it is not applicable to the family pensioners and hence it is discriminatory. On a careful perusal of the impugned G.O., it can be seen that an option is given to the pensioners either to opt for the new formula or to retain the current pension. The above option can only be exercised by the pensioners who are alive on the date of issuance of the impugned G.O., and that it cannot be extended to the legal representatives of the pensioners or family pensioners. Hence, it cannot be held as arbitrary or discriminatory.

50. It is true the petitioner/pensioners are to be treated as homogeneous group and they cannot be discriminated. But in the instant case there is no discrimination between the same class of pensioners and hence the contention of violation of Articles 14 and 16 of the Constitution of India cannot be accepted, the Government Order only rectify the defects pointed out by the Hon'ble Supreme Court in the earlier round of litigation.

51. So far as the judgments relied upon by the learned senior counsel appearing for the petitioner in State of Mizoram Vs. Mizoram Engineering Service Association reported in 2004 6 SCC 218 relates to the fixing pay scales, where there was discrepancy in pay fixation, therefore the said judgement is not factually applicable and not relevant to decide the instant case.

52. In yet another judgement in D.S.Nakara Vs. Union of India reported in (1983) 1 SCC 305, wherein a Constitutional Bench of the Hon'ble Supreme Court has held that, there cannot be any discriminatory treatment to the equals in the matter of computation of the pension. But in the instant case, I have already held there is no discrimination in fixing the



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pension and hence, judgement relied upon by the learned senior counsel appearing for the petitioners is also not applicable to the facts of this case.

“53. Considering all these circumstances, I am of the view that the Government Order and subsequent Government letters impugned in these writ petitions cannot be held as arbitrary or irrational and violative of Articles 14 and 16 of the Constitution of India. I find no reason to set aside the impugned Government Order and the impugned Government letters. Consequently, I find no merit in these writ petition and the writ petitions deserves only to be dismissed and accordingly dismissed. No costs.”

5. In view of the above, these present Writ Petitions are liable to be dismissed and accordingly, these Writ Petitions are dismissed. No costs.

07.02.2025

Index : Yes/No
Neutral Citation : Yes/No
AT

To

1. The Principal Secretary to Government,
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Finance (PGC) Department,
Secretariat, Chennai – 600 009.

2. The Accountant – General (A&E),
Tamil Nadu, Chennai – 600 018.



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C.SARAVANAN, J.

AT

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