IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.12.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.1931 of 2023

M.Balasubramanian …. Petitioner

Vs

1.The Special Secretary to Government
Government of Tamil Nadu
Finance Department
Secretariat, Fort St.George
Chennai – 600 009.

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

3.The Director
Treasuries and Accounts Department
Chennai – 600 035.

4.The Principal Resident Commissioner
Tamil Nadu House
New Delhi – 21. ….. Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India seeking to issue Writ of Certiorarified Mandamus calling for the records connected with the impugned order passed by the first respondent in Letter

No.17509/Allowances/2021, dated 24.5.2021 and quash the same and consequently direct the first respondent to include 20% of the revised basic pay as Special Pay for the purpose of calculation of pension and other retirement benefits of the petitioner and revise and refix the pension and other retirement benefits of the petitioner and pass orders.

For Petitioner : Mr.R.Rengaramanujam

For Respondents : Mr.J.Ravindran
Additional Advocate General
Assisted by Mr.P.Ananda Kumar
Government Advocate for R1, R3 & R4

Mr.S.Balaji for R2 [No appearance]

ORDER

The above writ petition is filed for the following relief :

" To issue Writ of Certiorarified Mandamus calling for the records connected with the impugned order passed by the first respondent in Letter No.17509/Allowances/2021, dated 24.5.2021 and quash the same and consequently direct the first respondent to include 20% of the revised basic pay as Special Pay for the purpose of calculation of pension and other retirement benefits of the petitioner and revise and refix the pension and other retirement benefits of the petitioner."

2. The petitioner before this Court is a retired Accounts Officer who served in the Office of the Principal Resident Commissioner, Tamil Nadu House, New Delhi. The petitioner was recruited through Tamil Nadu Public Service Commission. He was initially appointed as Junior Assistant in Tamil Nadu Treasuries and Accounts Department, on 14.05.1985 and thereafter was promoted as Accountant, Sub Treasury Officer, Assistant Accountants Officer and finally as Accounts Officer. The petitioner has blemishless record of service.

3. The petitioner would submit that during his tenure as Accounts Officer, he was on deputation to the Tamil Nadu House at New Delhi, by orders of the third respondent dated 08.06.2015. He served in the Tamil Nadu House, New Delhi for a period of one year and had superannuated on 30.06.2016. The petitioner would submit that as per the service conditions, he was entitled to Special Pay, which is 20% of the basic pay. This benefit was extended to the staff serving in the Tamil Nadu House, New Delhi, taking into account the unique and special nature of work and the place of work which is very distant from Tamil Nadu, the cost of living at New Delhi which is very high when compared to Tamil Nadu and also the expenditure that a person has to undergo owing to the extreme climatic condition at New Delhi. The staff of the Tamil

Nadu House, New Delhi are required to work round the clock, on shift basis.

4. The petitioner would submit that the employees who served in the Tamil Nadu House till 31.12.2015, were granted 20% of the basic pay as Special Pay. Thereafter, as per the recommendations of the Official Committee on pay revision, the revised pay scale was introduced by the Government vide G.O.Ms.No.303 Finance (Pay Cell) Department, dated 11.10.2017, with notional effect from 01.01.2016 and with monetary benefits from 01.10.2017. Similarly based on the recommendations of the Official Committee, the Special Pay for the eligible employees was also revised in terms of G.O.Ms.No.304 (Finance Cell) dated 13.10.2017. In terms of the said G.O.Ms.No.304, the staff of Tamil Nadu House, New Delhi, was also granted the revised special pay, which was 10% of revised level pay. Vide this G.O., the Special Pay granted to the staff of Tamil Nadu House was reduced to 10% from 20% of basic pay, which was in vogue till then. This G.O., has taken effect from 01.10.2017. Subsequently, the Principal Resident Commissioner, Tamil Nadu House, New Delhi, had requested the Government to retain 20% of Special Pay in the revised pay structure to the staff of Tamil Nadu House, New Delhi, as a special case and the Government vide G.O.Ms.No.409, Finance (Allowances) Department, dated 24.12.2018, had considered the same and decided to grant

Special Pay at 20% of the revised level pay.

5. The petitioner would submit that his basic pay was revised as per G.O.Ms.No.303 Finance Department dated 11.10.2017. However, his Special Pay which ought to have been 20% of his revised basic pay, was not taken into consideration while calculating his pension and other retirement benefits. Therefore, the petitioner has sought for refixation of pay with effect from 01.01.2016. The petitioner had submitted a detailed representation to the first respondent on 11.02.2019 addressing the anomaly in the pay structure and to extend the benefit of 20% of revised basic pay as the Special Pay for calculating his pension and retirement benefits. This was also followed by reminders dated 05.11.2019, 06.01.2020 and 21.10.2020. However, there was no response from the respondents. Hence, the petitioner was constrained to file W.P.No.4878 of 2021 seeking leave of this Court to direct the first respondent to consider his representation dated 06.10.2020 and 21.10.2020 and to dispose of the same. This writ petition was disposed of with a set of directions to the first respondent to consider his representations within a period of 120 days.

6. The above claim of the petitioner in W.P.No.4878 of 2021 has now been rejected by the impugned order stating that the Special Pay which is 20%

of revised level of pay (Basic Pay) is sanctioned as a special case to the employees working in the Tamil Nadu House, New Delhi, only with effect from 01.10.2017, and since the petitioner had superannuated on 30.06.2016, he is entitled to the special pay as applicable to pre-revised scale in the TNRSPR-2009. Therefore, the request of the petitioner to grant Special Pay with effect from the date of his retirement is not feasible of compliance and accordingly, his request was rejected.

7. The petitioner would further contend that this loss was incurred only by the pensioners who had retired from the Tamil Nadu House, New Delhi during the period 01.01.2016 to 30.09.2017, and not to those who had retired prior to 31.12.2015 and who had retired after 30.09.2017. During this period, only two staff of the Tamil Nadu House, New Delhi had retired, namely the petitioner herein who is holding the post of Accounts Officer and one Jeyamma, holding the post of Assistant in the Tamil Nadu House, New Delhi, and they alone were denied of the benefits of revised Special Pay of 20%.

8. Aggrieved by the impugned order, the petitioner is before this Court.

9. The counter has been filed on behalf of the first respondent. The

respondent would submit that Rule 2(iv) of the Tamil Nadu Special Pay and Allowances Rules defines Special Pay as an addition, of the nature of Pay, to the emoluments of a post or of a Government servant granted, taking into consideration (a) the specially arduous nature of the duties; or (b) a specific addition to the work or responsibility; or (c) the unhealthiness of the locality in which the work is performed. The respondent would contend that the petitioner has not challenged G.O.(Ms) No.304, Finance (Pay Cell) dated 13.10.2017, which had halved the Special Pay granted to the employees on percentage basis i.e., in case of 20%, it was reduced to 10%. Therefore, the prayer sought for by the petitioner is not maintainable.

10. The respondent would further submit that vide G.O.Ms.No.40, Finance (Pay Cell) Department dated 22.02.2017, the Government had constituted the Official Committee to examine and make recommendations on revision of pay scale, allowances for the State Government employees, teachers and employees of the Local Bodies. Accordingly, the Official Committee 2017, had submitted its recommendations for revision of pay, allowances, pension and related benefits and also stated that the existing grant of Special Pay may stand continued to the eligible employees. However, the said Committee had taken a decision that the employees who are drawing the Special Pay at percentage

basis in the existing basic pay, would have their Special Pay reduced by 50%. The Government has also accepted the recommendations of the Committee. Therefore, the claim of the petitioner that the said fixation is arbitrary and unjust, is without merits. It is further contended that there is no illegality or irregularity in the order of the first respondent, seeking quashment of the said order.

11. The respondents would contend that the Hon'ble Supreme Court in catena of cases had held that the Courts cannot interfere with the policy decision taken by the Government merely because it feels that another decision would have been fairer. In this regard, the respondent had relied upon the judgments of the Hon'ble Supreme Court in State of ***Madhya Pradesh Vs Narmada Bachao Anadolan*** reported in ***(2011) 7 SCC 639***; ***State of Madhya Pradesh through Principal Secretary & Ors. Vs Seema Sharma*** reported in **2022 SCC OnLine SC 809.** The Hon'ble Supreme Court in ***State of Uttarkhand Vs. Sudhir Budakoti*** reported in ***2022 SCC OnLine SC 420***, has held that when recommendations were made by a body of experts constituted for the said purpose, the Courts may wary on entering into the arena, as its interference would amount to substitution of views.

12. The respondent would further submit that if the present writ petition is allowed, it would have a cascading effect. The respondent would further submit that the Special Pay at the rate of 20% of revised level of pay was sanctioned with effect from 01.10.2017 only, however, the petitioner had retired from service on superannuation on 30.06.2016 itself. Therefore, the petitioner is entitled only to the Special Pay as applicable under pre-revised scale in the Tamil Nadu Revised Scales of Pay Rules-2009. The respondent would contend that the petitioner had misconceived this fact and would reiterate that the revised Special Pay of 20% was granted to the employees of the Tamil Nadu House only on 01.10.2017, which has the monetary effect of 7th Pay Commission and the same cannot be retrospectively sanctioned to the petitioner alone in the Revised Scale of Pay Rules 2017. Therefore, the petitioner is not prejudiced in any way. The respondents, therefore, sought to have the writ petition dismissed.

13. Heard the learned counsel on either side and also perused the materials placed before this Court.

14.The grievance of the petitioner is that he was denied 20% Special Pay from 01.06.2016 to the date of his retirement. Admittedly, till 31.12.2015, in addition to the basic pay, the petitioner was receiving 20% of the pre-revised basic pay as a Special Pay. Thereafter, by virtue of G.O.Ms.No.303, Finance (Pay Cell) Department, dated 11.10.2017, the Basic Pay was revised. Subsequently, by virtue of G.O.Ms.No.304, Finance (Pay Cell) Department, dated 13.10.2017, the petitioner's Special Pay was reduced to 10% from 20% which was in vogue till then. Though the Basic Pay was enhanced, the Special Pay was not revised. The petitioner had submitted several representations to the first respondent requesting refixation of pay by extending the benefit of 20% of his revised Basic Pay as Special Pay, for the purpose of calculating his pension and granting other retirement benefits. The petitioner's representation has been rejected and his request has been turned down on the ground that by reason of G.O.Ms.No.304 Finance (Pay Cell) Department, dated 13.10.2017, the Special Pay granted at the percentage basis was halved with effect from 01.10.2017. However, based on the request of the Principal Resident Commissioner, Tamil Nadu House, New Delhi, the Government vide G.O.Ms.No.409, Finance (Allowances) Department, dated 24.12.2018, has decided to grant Special Pay at 20% of revised level pay in the revised pay structure, with effect from 01.10.2017. According to the first respondent, the petitioner having retired on

30.06.2016, he is not entitled to the benefit of G.O.Ms.No.409 dated 24.12.2018.

15. A perusal of G.O.Ms.No.304 dated 13.10.2017 would reveal that it is a sequel to G.O.Ms.No.303 dated 11.10.2017, and by virtue of G.O.Ms.No.304, the Special Pay granted to the eligible employees on percentage basis, has been halved. However, the Rules appended to G.O.Ms.No.303 would read that "*the revised Pay Level for regular Government employees and employees on special time scales of pay / Consolidated Pay / Fixed Pay / Honorarium shall take notional effect from 1st January 2016 with monetary benefit from 1st October 2017*". In the instant case, the petitioner suffers a monetary loss. Therefore, if the monetary benefit were to give effect from 01.10.2017, then the monetary loss should commence only from 01.10.2017. It is seen that within a short period of passing the order in G.O.Ms.No.304, the Government has taken note of the letter given by the Prinicpal Resident Commissioner, Tamil Nadu House, New Delhi, requesting to revert the Special Pay granted to its employees, once again to 20%. Their request was acceded to as a special case, and the Government vide G.O.Ms.No.409 dated 24.12.201, has decided to grant the Special Pay at the rate of 20% of the revised Basic Pay. It is relevant to extract paragraph Nos.2 and 3 of G.O.Ms.No.409, Finance [Allowances] Department,

dated 24.12.2018 :

"2. The Principal Resident Commissioner, Tamil Nadu House, New Delhi in the reference second read above has stated that the employees of Tamil Nadu House, New Delhi were allowed to draw their Special Pay of 20% of basic pay in all the revised pay rules, as and when implemented the revised scales of pay. The work in Tamil Nadu House, New Delhi, is unique and special in nature and the place of work is very distant from Tamil Nadu. The cost of living in New Delhi is very high compared to Tamil Nadu, particularly rentals, schooling and food items. The extreme climatic conditions necessitate significant additional expenditure on clothing particularly on warm cloths. In terms of nature of work also, the staff are required to be available 24x7 work on all holidays on shift basis and have to work at odd hours. In view of the above, the employees of Tamil Nadu House, New Delhi were getting 20% of Special Pay since 1977. If the incentive of 20% of Special Pay on basic pay is reduced, this will discourage the staff of Tamil Nadu House and create difficulties in filling up of posts in other offices such as Sub Pay and Account Office, Information Centre, Public Works Sub-Division located in Tamil Nadu House, New Delhi, which have officers and staff deputed from parent department in Tamil Nadu. In these circumstances, the Principal Resident Commissioner, Tamil Nadu House, New Delhi has requested the Government to retain 20% of Special Pay in the revised pay structure to the staff of Tamil Nadu House, New Delhi, as a special case.

3. After careful examination, the Government has decided to grant Special Pay @ of 20 per cent of revised level pay in the revised pay structure (rounding it off to next 10 rupees) to all the employees in the Tamil Nadu House, New Delhi considering the special nature of work in

Tamil Nadu House, New Delhi, in terms of distance from Tamil Nadu and the attendant disadvantages faced by the employees of Tamil Nadu House, New Delhi, as a special case. Accordingly, the Government direct that the Special Pay at the rate of 20 per cent of revised level pay (Basic Pay) in the revised pay structure (rounding it off to next 10 rupees) shall be granted to all the employees in the Tamil Nadu House, New Delhi, with effect from 1st October 2017, as a special case."

16. Therefore, it is clear that the Government has considered the special nature of work and the attendant disadvantages faced by the employees of the Tamil Nadu House, New Delhi and had reverted to the original percentage of 20% and accepted to grant Special Pay @ 20% of the revised Basic Pay, as a special case. This benefit was ordered to take effect from 1st October 2017. In the said circumstances, the petitioner is also entitled to the benefit of Special Pay at the rate of 20% of the revised Basic Pay. Further, the respondents would not suffer a monetary loss, inasmuch only two persons are affected by the said G.O.Ms.No.304, namely the petitioner herein and one Jeyamma, referred supra, whom have served in the Tamil Nadu House, New Delhi, during the said period.

17. In the result, the writ petition is allowed and the impugned order of the first respondent is hereby quashed. The first respondent is directed to

consider the claim of the petitioner in the light of G.O.Ms.No.409, Finance (Allowances) Department dated 24.12.2018 and the observations made supra and to include the 20% Revised Basic Pay as Special Pay for calculating the pension and other retirement benefits which the petitioner is entitled to and to settle the arrear amount, if any, which the petitioner is entitled to. No costs.

03.12.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking order / Non-speaking order
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P.T. ASHA, J,

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