THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.27133 of 2024

M.Ganesan,
Plot No.107, Third Street,
Padmavathi Nagar,
Madambakkam Post,
Chennai - 600 126. ... Petitioner

versus

1.The State of Tamil Nadu,
Represented by its
Principal Secretary to Government,
Finance Department,
Secretariat, Chennai - 600 009.

2.The Pension Pay Officer,
Prof.K.Anbalagan Maligai (Ground Floor),
571, Anna Salai,
Chennai - 600 035.

3.The Registrar General,
High Court of Madras,
Chennai - 600 104. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent in RC No.23552/A1/2022 dated 23.01.2023 and other connected records and that of the first respondent relating to the petitioner's representation dated 10.04.2024 and direct the first respondent to issue necessary instructions to the second respondent to pay the arrears of additional pension to the petitioner @ 20% from 01.07.2019 to 30.06.2020 as requested by the petitioner in his letter dated 31.08.2022.

For Petitioner	:	Mr.K.M.Ramesh Senior Counsel for Ms.J.Sathyavathi
For Respondents	:	Mr.Azizulla Khan Government Advocate - R1 & R2 Mr.Kaithamalai Kumaran - R3

O R D E R

(Order of the Court was made by ***R.SUBRAMANIAN, J.***)

The petitioner is aggrieved by the rejection of his request for grant of additional pension as provided under G.O.42, Finance (Pension) Department, dated 7th February, 2011 from the date on which he attained the age of 80 / completed the age of 79.

2. G.O.42, Finance (Pension) Department, dated 7th February, 2011, sanctioned of additional pension / additional family pension to those pensioners, who had reached a particular age. Paragraph no.2 of the said Government Order reads as follows:-

*"**2**. Accordingly, the Government sanction an additional quantum of Pension /Family Pension to the Pensioners / Family Pensioners aged 80 years and above as follows:*

SI. No.	***Age of Pensioner / Family Pensioner***	***Additional Pension/ Additional Family Pension***
1	*From 80 years to 84 years*	*20% on Basic Pension / Family Pension*
2	*From 85 years to 89 years*	*30% on Basic Pension / Family Pension*
3	*From 90 years to 94 years*	*40% on Basic Pension / Family Pension*
4	*From 95 years to 99 years*	*50% on Basic Pension / Family Pension*
5	*100 years and above*	*100% on Basic Pension / Family Pension*

3. In paragraph no.3 of the said Government Order, the procedure for payment was prescribed as follows:-

SI. No.	***Procedure***
1	*The amount of additional Pension / additional Family Pension shall be shown distinctly.*
2	*Additional pension / additional Family Pension shall be taken into account for calculation of Dearness allowance.*
3	*Additional Pension / additional Family Pension shall be sanctioned with monetary benefit from 1.1.2011.*
4	***Additional Pension / additional Family Pension to the Pensioner /Family Pensioner shall be sanctioned from the first day of the month in which he / she completes the age of 80/85/90/95/100 years or from 1.1.2011, whichever is later.***

4. Subsequently, G.O.(Ms.)No.313, Finance (Pay Cell) Department, dated 25th October, 2017 was issued revising the pension /

family pension and retirement benefits. The said Government Order also reiterated the payment of additional pension to pensioners, who had reached the age of 80. Paragraph no.20 of the said Government Order deals with the additional pension and it reads as follows:-

" ***ADDITIONAL PENSION / FAMILY PENSION***

20.(1) *The quantum of additional pension/family pension shall continue to be as specified in the table given below:-*

Sl. No.	***Age of Pensioner / Family Pensioner***	***Additional quantum of pension/family pension***
[1]	*[2]*	*[3]*
1.	*From 80 years to 84 years*	*20% of revised pension /family pension*
2.	*From 85 years to 89 years*	*30% of revised pension /family pension*
3.	*From 90 years to 94 years*	*40% of revised pension /family pension*
4.	*From 95 years to 99 years*	*50% of revised pension /family pension*
5.	*100 years or more*	*100% of revised pension /family pension*

(2) *The Pension Disbursement Authorities shall ensure that the date of birth and the age of the pensioners/family pensioners is invariably indicated in PPO (issued by Principal Accountant General (Accounts and Entitlement), Tamil Nadu and the pension payment order to facilitate payment of additional pension/family pension by them as soon as it becomes due. If the requisite information is not available in the Pension Payment Order (PPO), in those cases the requisite information may be obtained from the Pensioners / Family Pensioners before adding the additional pension/family pension in* *the existing pension/family pension. The amount of additional pension/family pension shall be shown distinctly in the pension/family pension payment order.*

Illustration:- In case where a pensioner/family pensioner is more than 80 years of age and his pension/family pension is Rs.10,000/- per month, the pension/family pension shall be shown as (i) pension / family pension = Rs. 10,000/- and (ii) additional pension /family pension = Rs.2,000/- per month. The pension /family pension on his attaining the age of 85 years shall be shown as (i) Pension/ family pension = Rs. 10,000/- and additional pension / family pension = Rs.3,000/- per month.

***(3)** The additional pension/family pension on attaining the age of 80 years and above shall be admissible from the first day of the month in which his date of birth falls.*

Illustration:-:- If a pensioner/family pensioner completes age of 80 years on any date in the month of July 2016, he shall become entitled to additional pension/family pension with effect from the 1st July, 2016.

***(4)** Dearness allowance shall also be admissible on the additional pension/family pension in accordance with the orders issued by the Government from time to time."*

5. A clarificatory letter was also issued by the Government on 19.05.2017, wherein the entitlement was clarified as follows:-

*"**3**. The following clarification is issued to Sl.no.4 in para-3 of the GO 1st cited based on the GOI clarification issued in the reference second cited:-*

"The additional quantum of pension / family pension to Pensioner/Family Pensioner on attaining the age of 80/85/90/95/100 years, would be admissible from the 1st day of the month in which his/her date of birth falls. For example, if a pensioner/family pensioner completes the age of 80 years in the month of August, 2008, he/she will be entitled to additional pension/additional family pension w.e.f. 1.8.2008. Those pensioners/family pensioners, whose date of birth is 1st August, will also be entitled to additional pension/additional family pension w.e.f. 1.8.2008 on attaining the age of 80 years and above."

6. Having set out the relevant Government Orders, we will now deal with the case of the petitioner. The petitioner was born on 01.07.1940 and he completed the age of 80 on 01.07.2020. There is no dispute that he was sanctioned additional pension with effect from July, 2020 as per the Government Orders and the clarificatory letter.

7. The petitioner would claim that he should be sanctioned additional pension at 20% from the date on which he reached the age of 80 i.e., on 01.07.2019. This request was rejected by the Government on the ground that as per the existing Government Orders, additional pension is allowed only on completion of 80 years and not on reaching 80 years. This order is the subject matter of challenge in the writ petition.

8. Mr.K.M.Ramesh, learned Senior Counsel for the petitioner would rely upon the judgment of the Gauhati High Court in ***Virendra Dutt Gyani Vs. The Union of India [W.P(C)No.4224 of 2016 dated 15.03.2018]*** to contend that under similar circumstances, the Gauhati High Court has concluded that when additional pension is allowed from 80 years, that should be granted from the day on which the pensioner reaches the age viz. age of 80 / on completion of 79 years.

9. The Gauhati High Court had dealt with the "High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2009" wherein Section 17B was introduced. Interpreting Section 17B of the Act, the Division Bench of the Gauhati High Court had come to a conclusion that the term "*from 80 years to less than 85 years*" would only mean that the pensioner will be entitled to additional pension from the date on which he reaches the age of 80.

10. We have no quarrel with the conclusion of the Division Bench of the Gauhati High Court inasmuch as this based on an interpretation of

Section 17B of “High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2009”.

11. The case on hand is a little different. The original Government Order which sanctioned additional pension at 20% is G.O.No.42 dated 7th February, 2011. Paragraph no.2 of the said Government Order which was already extracted prescribes the age limit and the quantum of additional pension. Paragraph no.3 lays down the procedure.

12. Clause 4 of para 3 which we have already highlighted makes it clear that additional pension is payable only from the first day of the month in which the pensioner completes the age of 80 / 85 / 90 / 95 /100 years or from 01.01.2011, whichever is later. Even in G.O.(Ms.)No.313 dated 25th October 2017, an illustration is appended which goes to show that the intention was to confer the benefit upon completion of 80 years or 85 years as the case may be and not upon reaching 80 years or 85 years.

13. Mr.K.M.Ramesh, learned Senior Counsel for the petitioner would also draw our attention to a judgment of the learned single Judge of this Court made in ***W.P.(MD)No.13264 of 2022 dated 22.07.2022***. We find that the learned single Judge has, based on G.O.(Ms.)No.313, arrived at a conclusion that the additional pension would be payable from the date on which the pensioner reaches 80 years.

14. With due respect to the learned Judge, we are unable to go with the said conclusion inasmuch as it does not take into account G.O.No.42 or the illustration given in G.O.(Ms.)No. 313 itself. The attention of the Court was not shown to the clarificatory letter dated 19.05.2017.

15. We therefore conclude that on the language of the Government Orders issued, it is clear that the intention of the Government was to grant additional pension only upon completion of an age limit and not on reaching that age.

16. Hence, the Writ Petition fails and it is accordingly ***dismissed***. No costs.

(R.S.M., J.) **(G.A.M., J.)**
20.02.2025

Speaking order
Index : Yes
Neutral Citation : Yes
sri

To

1.The Principal Secretary,
Government of Tamil Nadu,
Finance Department,
Secretariat, Chennai - 600 009.

2.The Pension Pay Officer,
Prof.K.Anbalagan Maligai (Ground Floor),
571, Anna Salai,
Chennai - 600 035.

3.The Registrar General,
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R.SUBRAMANIAN, J.
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