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W.P. No.34679 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P. No.34679 of 2022

A. Rajappan

.. Petitioner

vs.

1. The State of Tamil Nadu
Rep. by its Additional Chief Secretary to Government,
Finance (Pay Cell) Department,
Fort St. George,
Chennai - 600 009.

2. The Secretary to Government
Finance (Pension) Department,
Secretariat,
Chennai - 600 009.

3. The Principal Accountant General (A & E),
No.361, Anna Salai,
Teynampet,
Chennai - 600 018.

.. Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 2nd respondent to consider petitioner representation dated 30.08.2022 and directing the 2nd respondent to grant additional quantum of pension / family pension of 20% which the petitioner entitled to in the case of 1st slab from the 1st day I entered my 80th year, i.e., from 07.04.2018 to 06.04.2019.



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For Petitioner : Ms.L.Sweety
for Mr.P.Sundaram
For Respondents : Mr.D. Ravichander,
Spl. Government Pleader

ORDER

By consent of both parties, this writ petition is taken up for final disposal in the admission stage itself.

2. Mr.D. Ravichander, learned Special Government Pleader accepts notice for the respondents.

3. The petitioner is a pensioner and is aged 83 years as seen from the affidavit filed in support of this writ petition. According to him, he was working with the Commercial Taxes Department and retired from service as a Joint Commissioner(CT) and he has been regularly getting the pension without any interruption until 2018. According to him on completion of eighty years on 07.04.2019, he got enhanced pension of 20% as per the regulations in force, which provides for 20% of additional pension / family pension for the pensioners who attained the age from 80 years to 84 years.

4. According to the petitioner, a retired person can claim additional quantum of pension / family pension of 20% in the case of first slab from



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the 1st day of entering into the 80th year and after completing 79 years of age.

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5. According to the petitioner, he became eligible for the additional quantum of pension/ family pension of 20% from 07.04.2018 i.e. starting from the beginning of his 80th year.

6. The petitioner has given a representation on 30.08.2022 to the 2nd respondent requesting to grant him the arrears of enhanced pension from 07.04.2018 till 06.04.2019. However, the said representation has not been considered. In such circumstances he has filed this writ petition.

7. The petitioner has also relied upon an order dated 08.07.2019 passed by the Hon'ble Supreme Court in SLP Civil Diary No.18133 of 2019 in the matter of Union of India and Ors. Vs. Virendra Dutt Gyani in order to substantiate his claim that G.O. Ms. No.24, dated 10.06.2020 is contradictory to the said judgment. G.O. Ms.No.24, based on which currently the pension amount is paid to the petitioner is also enclosed along with this writ petition. The Note found under the tabular column in



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G.O. Ms. No.24, dated 10.06.2020 has made it clear that the expression

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'years' shall mean completed years, whereas according to the petitioner as per the Hon'ble Supreme Court decision referred to supra, it must be the 1st day on which the petitioner had attained the age of 80 years.

8. No prejudice would be caused to the respondents, if the petitioner's representation as stated supra is considered on merits and in accordance with law after giving due consideration to the judgment of the Hon'ble Supreme Court referred to supra. It is for the respondents to consider and decide as to whether the said judgment is applicable to the case of the petitioner or not.

9. For the foregoing reasons, this Court directs the 2nd respondent to pass final orders on merits and in accordance with law on the petitioner's representation dated 30.08.2022 requesting for grant of additional quantum of pension / family pension of 20%, which the petitioner claims he is eligible in the case of first slab on the 1st day of his 80th year i.e. 07.04.2018 to 06.04.2019, within a period of twelve weeks from the date of receipt of a copy of this order.



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10. With the aforesaid directions, this writ petition is disposed of.

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Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
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To :

1. The Additional Chief Secretary to Government,
State of Tamil Nadu
Finance (Pay Cell) Department,
Fort St. George,
Chennai - 600 009.

2. The Secretary to Government
Finance (Pension) Department,
Secretariat,
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3. The Principal Accountant General (A & E),
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ABDUL QUDDHOSE, J.

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