
(2014) 10 MAD CK 0133
In the Madras High Court
Case No : Writ Petition No. 27696 of 2010

U.S. Prakasam

APPELLANT

Vs

The Principal Secretary

RESPONDENT

Date of Decision : 17-10-2014

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2014) 10 MAD CK 0133

Hon'ble Judges : M.M. Sundresh, J

Bench : Single Bench

Judgement

M.M. Sundresh, J.—The petitioner herein was appointed as Assistant Surgeon in the year 1989. Thereafter, he retired as Civil Surgeon on 30.9.2009. In pursuant to the recommendation made by the Committee, a Government Order was passed in G.O.Ms.No. 354/H and FW(B2) Department dated 23.10.2009 granting pensionary benefits to those employees, who have completed twenty years of service by placing them in the next cadre. However, the G.O., having come into force with effect from 23.10.2009 and the petitioner having retired on 30.9.2009, the benefit covered therein was not effected to him even though he completed 20 years of service like that of those who retired on or after 23.10.2009.

2. The learned counsel for the petitioner submitted that considering the very same G.O, the Madurai Bench of this Court by Order dated 30.4.2013 made in W.P.(MD) No. 5168 of 2011 was pleased to extend the benefit to those who retired prior to coming into effect of the G.O provided they are satisfied with the norms specified therein. Hence, he submitted that the petitioner will have to be given the same benefit. According to the learned counsel for the petitioner, the the date of coming into force of the G.O is not relevant, but the number of years of service required as mentioned therein.

3. Even though the case has been adjourned on six occasions from 6.3.2013 onwards, no counter affidavit has been filed. Therefore, this Court is inclined to

proceed with the available materials. In W.P.(MD) No. 5168 of 2011 referred supra, this Court after considering the very same issue was pleased to hold as follows:

""48. It was also brought to the notice of this Court by the learned counsel appearing for the petitioners that the revised pension was given to one Thiru. T. Venkatesan, P.P.O.No. A848773, through the date of his retirement is 30.06.1996, though Assistant Treasury Officer, Tiruchirapalli. Similarly a xerox copy of the Letter No. 3391/E2/2012-2, dated 26.07.2012, issued by Additional Chief Secretary to Government to the Directorate of Collegiate Education, Chennai-6 (w.e.), whereby, one Thiru. K.S. Narayanan, a retired Professor (Chemistry), of V.O. Chidambaram College, Tuticorin, an aided college, was given revised scale of pension on Rs. 37400-67000 + AGP 9000. The operative portion of the letter addressed by the Additional Chief Secretary to Government reads as follows:

""In the present case, Thiru. K.S. Narayanan, who has completed 21 years of service in the post of Professor can be considered as Lecturer (Selection Grade) with 3 years service. Hence, he is entitled for revision of his pension with reference to the scale of pay of Rs. 37400-67000 + AGP 9000 with effect from 1.1.2006 at Rs. 23,200/-. Therefore, I am to request you to revise the pension of the retired Professor, Thiru.K.S.Narayanan as indicated above.""

49. Therefore, rejection of the reasonable demand of the petitioner and the other retired members of the Tamil Nadu Govt. Retired Medical Officers" Association has created only an unreasonable disparity in payment of pension to similarly placed persons and it has to be construed as apparent and patent discrimination among equals and thereby violating the mandate of Article 14 of the Constitution. Hence, to meet the ends of justice, I find it just and reasonable to allow the writ petitions and to direct the respondents to implement the G.O.Ms.No. 354 of 2009 to the petitioners, irrespective of their date of retirement, either prior to 23.10.2009 or subsequent to Government Order, dated 23.10.2009.

So far as the other members of the Tamil Nadu Govt. Retired Medical Officers are concerned, it is made clear that they are entitled to get their pension, on par with similarly placed officers, who retired subsequent to 23-10-2009, as per G.O.Ms.No. 354 of 2009.

50. In the result, both the writ petitions are allowed, setting aside the order passed in Letter No. 27434/Pay Cell/2011-1, dated 22-07-2011 on the file of the first respondent, whereby the respondents are directed to pay pension to the petitioner in both the writ petitions, though they had retired prior to 23.10.2009, on par with other similarly placed Professors and Medical Officers, who retired subsequent to G.O.Ms.No. 354, Health and Family Welfare (B2) Department, dated 23.10.2009. The respondents are ordered to comply with this directions, within eight weeks from the date of receipt of a copy of this order. No costs.

Petitions allowed.'''

4. This Court is of the view that the ratio laid down in the above said Order dated 30.4.2013 in W.P.(MD) No. 5168 of 2011 is squarely applicable to the facts of the case on hand. Accordingly, the order impugned is set aside and the writ petition stands allowed on the very same terms as held in W.P.(MD) No. 5168 of 2011. However, there is no order as to costs.