

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

MA/310/00847/2017

in

OA/310/00644/2002

Dated 1st day of February Two Thousand Eighteen

PRESENT

HON'BLE SMT. B. BHAMATHI, Member (A)

P. Silas Vijayakumar S/o Ponusamy,
184, Jawahar II Street,
Somasundaram colony,
Madurai 625016.Applicant

(Party in person)

Vs

1.Sri.R.Natesh,
Divisional Finance Manager,
Southern Railway,
Madurai 625016.
2.Sri Neenu Ittyerah,
Divisional Railway Manager,
Southern Railway,
Madurai 625016.Respondents

By Advocate Mr. D. Hariprasad

Reserved on : 10.01.2018

Pronounced on : 01.02.2018

ORDER

(Pronounced by Hon'ble Smt. B. Bhamathi, Member(A))

The applicant (party in person) has filed this MA 847/2017 in OA 644/2002 seeking the following reliefs:

- “1. *III Pay Commission Pension of rs. 873/- instead of Rs. 997/- not rectified and arrears paid till this date.*
- 2. *To set aside order No. 500/MDU/PN0608202029 dated 1.4.2009.*
- 3. *To grant equal pay from 24.06.74 to 30.11.2009 and pension from 1.12.2009 on par with my junior, Sri. Natarajan.*
- 4. *Payment of personal pension of Rs. 112/- twice sanctioned by Tribunal has to be continued from 1.7.86.*
- 5. *Retirement benefits :- a) difference of 60 days LAP
b) encashment of LHAP c) Difference in DCRG to be paid.*
- 6. *Revision of seniority list of Rs. 425-640 grade has to be done.*
- 7. *Pray for one time payment with calculation particulars.”*

2. The history of the applicant's case, as per records is as follows:

2.1 The applicant retired on 30.06.1986 from the Railways as Chief Travelling Ticket Inspector. Since his pension amount was not fixed correctly, he filed OA 901/1997 before this Tribunal seeking a direction to the respondents therein to fix his pension at Rs. 1078 w.e.f. 01.07.1986 and grant him all the consequential benefits including arrears. This Tribunal allowed the OA by order dt. 06.08.1999 with the following observations and directions:

“8. Thus, it is seen that the respondents have been shifting their stand without any basis. It may be noted that this is a matter which is more than 13 years old and deserves to be attended to on a priority basis. It is further seen that the respondents are relying on wrong documents to deny the legitimate personal pension to the applicant. We are seriously concerned about the delay and the inept way in which the whole matter has been handled by the respondents. It is very important that the legitimate interest and benefit of pensioners are looked after with utmost care and caution, without subjecting them to worry themselves about the money due to them from the Government. We hope that the

respondents would earnestly look into this matter and see that needful is done immediately to the applicant.

9. In the result, the applicant succeeds and the impugned order of the second respondent dated 8.5.1997 made in No. U/P 500/VII/167 is quashed. The respondents are directed to rework the pension and other benefits due to the applicant, with effect from 1.7.1986, including arrears arising out of such refixation of pension, keeping in mind the observations made by us in this order.

10. The OA is allowed to the extent indicated above with no order as to costs.”

2.2 Against this order dt. 06.08.1999, the respondents therein preferred a WP 1409/2000 before Hon'ble Madras High Court. The Hon'ble Madras High Court while dismissing the WP made the following observations:

“as per the calculation of the Railway administration the pension of the employee would be Rs. 1035/- and whereas if his calculations are accepted, which has been done by the Tribunal, the pension is going to be Rs. 1078/-, Rs. 43/- more than what should be his pension as per the contention of the Railway administration. The Tribunal has accepted the case of the employee and has observed that the respondents, ie., the Railway administration were shifting their stand from time to time. This observation is given in para 8 of the order considering the triviality of the amount involved, we do not think this is a matter worth going into in Writ Jurisdiction. Therefore, we are not inclined to exercise our discretions in the Writ under the Article 226 to interfere with the matter. The Writ Petition is dismissed- Connected WMP also dismissed-No costs.”

2.3 Pursuant to the dismissal of the WP 1409/2000, the respondents passed the order dt. 28.01.2002 revising the applicant's pension to Rs. 1078/- w.e.f. 01.07.1986.

2.4 The applicant again approached this Tribunal in OA 644/2002 seeking quashing of the order dt. 28.01.2002 and directions to the respondents to revise his pension correctly by including the personal pension. This Tribunal passed an order dt. 20.03.2003 allowing the OA with the following observations and directions:

“12. While parting with this case, we would like to make following observations. The applicant is about 74 years old now. He is obviously in the twilight of his life. He has agitation a matter which related to fixation of his pensionary benefits from 1.7.86. It must be understood that it is statutory right in

so far as the applicant is concerned and there can be neither a time bar nor there can be any secrecy about it. All that the Tribunal wanted on the earlier occasion (OA No. 901/97) was to rework the pension in accordance with the rules. This could have easily done in a transparent manner, so that the applicant is satisfied his rights have been protected. In spite of doing this, we regret to note that the respondents are finding ways and means to defend their actions. It does not speak well for a department to treat a matter like pension in respect of an employee who had diligently served the department for more than 36 year. We hope that the matter will be now considered in accordance with the rules and in a transparent manner.

13. In view of the discussion above, we allow the OA. The Impugned order dated 28.1.02 is quashed. The respondents are directed to rework the applicant's pension in accordance with law and keeping in mind, the observations made by this Tribunal in this OA as well as in OA No. 901/97. This exercise shall be completed within 8 weeks from the date of receipt of this order. No costs."

2.5 Pursuant to this order, the respondents therein passed order dt. 17.06.2003 fixing the applicant's pension at Rs. 1078/- per month but rejected the applicant's claim for payment of personal pension. Against this, the applicant preferred a contempt application CA 90/2003 which was dismissed by this Tribunal by order dt. 09.06.2004 giving liberty to the applicant to challenge the order dt. 17.06.2003 cited supra in a fresh OA.

2.6 Accordingly, the applicant filed an OA 677/2004 seeking quashment of the order dt. 17.06.2003 and a direction to the respondents therein to refix his pension correctly by including personal pension. This Tribunal dismissed the OA by order dt. 29.07.2005 with the following observations:

"8. The applicant was fixed pension of Rs. 1027/- from 1.7.1986. Consequent upon the judgment of this Tribunal in OA No. 901/97 and latter his pension was increased to Rs. 1078/- pm as per the directions of the Hon'ble High Court of Madras in WP No. 1409/2000 filed by the respondents against the order of the Tribunal in OA No. 901/97. The applicant is in receipt of Rs. 1078/- as pension till now. We have also seen the calculation sheet fixing the pension as Rs. 1035/- pm by the respondents.

9. We have also seen the Railway Board's letter dated 7.4.2000 that in respect of retirees who have opted for pre-revised Third Pay Commission pension was calculated under the rules in force prior to 1.1.86 and some of the

retirees were allowed to draw personal pension as a separate element without any dearness relief thereon. But the matter was examined by the nodal Department ie., DOPT and it has been clarified to discontinue the grant of personal pension with effect from 1.1.1996.

10. The applicant has sought for stepping up pay with one Shri K. Natarajan who is junior to the applicant. As rightly stated by the respondents in their reply that Shri Natarajan that Shri Natarajan is a sports person and he was granted increments from time to time for his participation in the sports even which has been dealt with by the separate rules. The applicant cannot compare himself with Shri Natarajan.

11. We are of the view that no interference is warranted in this OA. The OA is dismissed with no order as to costs.”

2.7 Against the dismissal of the OA 677/2004, the applicant preferred a WP 31172/2005 before Hon'ble Madras High Court seeking quashment of the order dt. 17.06.2003 and order of this Tribunal dt. 29.07.2005 and a direction to the 2nd respondents therein to refix his pension in accordance with law. The Hon'ble Madras High Court allowed the WP 31172/2005 by order dt. 06.09.2007 and held as follows:

“14. It cannot be disputed that the senior official cannot claim any special pay, if any being paid to a junior official, on the ground of his recognized sporting excellence. However, the seniority cannot be refixed in the same cadre on the ground of sporting excellence. Here, in the instance case, it is not in dispute that the petitioner herein had joined the service as Ticket Examiner on 16.11.1950 and the aforesaid Sri. K. Natarajan joined in service only on 16.12.1968. Both were given promotion as Travelling Ticket Inspectors along with others as Chief Travelling Inspectors in scale on Rs. 550-750/- with effect from 01.01.1984. As per the reply statement filed by the respondents 1 and 2, on account of decentralization, 16 Chief Travelling Ticket Inspectors in scale of Rs. 550-750/- were given promotion, by order, dated 08.05.1984, as they were the senior most officials in the feeder category. The same has been clearly admitted in the reply statement filed by the respondents 1 and 2. Similarly, it is not in dispute that the petitioner retired from service as Chief Travelling Inspector on 30.06.1986. In such circumstances, the petitioner is entitled to claim his pay on par with his junior and accordingly, the pension payable to him has to be fixed by the authorities, namely the respondents 1 and 2.

15. We are of the considered view that since the respondents 1 and 2 have admitted that both the writ petitioner and the aforesaid Sri. K. Natarajan were promoted to the same cadre on 01.01.1984, they cannot be discriminated in pay scale, as the same would be construed as violative of Article 14 of the Constitution. It is apparent that the petitioner was not paid his salary on par with the aforesaid Sri. K. Natarajan, though the petitioner was equally placed and also senior to the aforesaid person. Despite the aforesaid admitted facts, as contended by the learned counsel for the petitioner, this vital aspect has not been legally

considered by the Central Administrative Tribunal, in passing the impugned order, under challenge before us and therefore, we are of the considered view that the writ petition has to be allowed.

16. Accordingly, the writ petition is allowed and the impugned order of the Tribunal, dated 29.07.2005 and the order of the second respondent, dated 17.06.2003 are set aside. The respondents 1 and 2 are directed to re-fix the petitioner's pension on par with the pay of his immediate junior Sri. K. Natarajan, as per law and such an exercise shall be carried out within four weeks from the date of receipt of a copy of this order. There shall be no order as to costs.”

2.8 Since no orders were passed by the respondents in pursuance of the order of the Hon'ble High Court dt. 06.09.2007 in WP 31172/2005, the applicant filed a CP 680/2008 seeking action against the respondents therein for non-compliance of the aforesaid order. During the pendency of CP 680/2008, the respondents therein passed order dt. 01.04.2009 refixing the applicant's pension on par with Shri K. Natarajan with effect from 01.01.1984 as directed by the Hon'ble Madras High Court in WP 31172/2005 cited supra. Accordingly, the Hon'ble High Court dismissed the CP by order dt. 02.11.2009 as follows:

“10. The contention of the petitioner that stopping of payment of personal pension would amount to disobedience of the Court's order cannot be countenanced. From the submissions of the respondents, it is seen that personal pension granted to some of the pensioners like the petitioner was stopped from 01.01.1986 for those who had opted to come over to IV th CPC Scale of Pay. The petitioner had opted for his fixation of pay in IV th CPC Scale of Pay and the letter No. PC-IV/87/PN dated 1987 was produced. It is clearly given in sub para (iii) of Para 12.1 of the said letter that those who have retired or will be retiring between 01.01.1986 and 30.06.1987 will have an option to retain the pre-revised scales of pay and have their pension and death-cum-retirement gratuity calculated under the rules in force immediately before coming into effect of these orders. Railway employees who have already exercised their option in favour of the revised 01.01.1986, provided they refund to the Government the excess pay and allowances drawn by them as a result of coming over to the revised scales of pay. It is seen from the above that only in such cases where the retired employees who had exercise their option to continue in the pre-revised scales of pay and who have opted to the pre-revised scale of pay by repaying the excess pay and allowance, the personal pension will be allowed. The petitioner having opted for IV th CPC Scale of Pay, as much is not entitled for payment of personal pension.

11. We find the direction of the Court in WP No. 31772 of 2005 dated

06.09.2007 has been substantially complied with and we do not find any disobedience of the order of the Court, muchless, wilful disobedience to proceed against the respondents for contempt of Court.

12. In the result, the Contempt Petition is dismissed giving liberty to the petitioner to challenge the order fixing revised pension in accordance with law. No costs.”

2.9 Again, the applicant approached the Hon'ble Madras High Court in WP 24984/2009 seeking a direction to the respondents therein for revision of seniority, correct fixation of pay, continuous payment of personal pension and for revision of pension at Rs. 2525/- per month. He had also prayed for an IR of Rs. 1,00,000/- with interest at the rate of 12 % from 26.06.1974 and costs of Rs. 50,000/-. The said WP was dismissed by order dt. 22.04.2010 with the observation that the respondents had recalculated and refixed the pension payable to the petitioner therein w.e.f. 01.07.1984 in accordance with the directions of the Hon'ble High Court in its order dt. 06.09.2007 in WP 31172/2005 cited supra. The Hon'ble High Court held as follows:

“13. The case projected by the petitioner that since his junior K. Natarajan was getting higher scale of pay he is also entitled to get the same and consequently refix the pension on par with him is unsustainable in view of the fact that Mr. K. Natarajan came to be promoted earlier than that of the petitioner and he was also drawing higher scale of pay from that date. That apart Mr. K. Natarajan in view of his meritorious performance in the sprinter and won laurels for the country by winning gold medal in Asian games, was given out of turn promotion Senior Ticket Inspector with effect from 24.06.1974 and from that date, he became senior to the petitioner.

14. As regards the stopping of provisional pension it has been found that the persons like the petitioner who had opted to come over to IV Central Pay Commission scale of pay are not entitled to it and accordingly it was stopped. Therefore, the petitioner cannot have any grievance.

15. In view of the above cited reasons, we find no merit in the writ petition.

16. In the result, the writ petition is dismissed. But in the circumstances, there will be no order as to costs. However, the petitioner is at liberty to challenge the memo dated 01.04.2009 in accordance with law.”

2.10. The applicant again approached this Tribunal with a prayer to

quash the seniority lists dt. 01.02.1983 and 01.03.1986 and revise the same. This Tribunal dismissed the application at the diary stage (Dy. No. 6373/2010) by order dt. 20.01.2011 as follows:

“2. The matter is posted for orders on maintainability on the ground that the applicant is challenging the provisional seniority lists dated 01.02.1983 and 01.03.1986 which is barred by limitation. And moreover applicant has filed WP No. 31172 of 2005 for pay protection on par with his junior one Natarajan and the Hon'ble High Court has settled the same. The relief sought for in this application was raised by the applicant in WP No. 24984/09 before the Hon'ble High Court of Madras and the Hon'ble High Court in its order dated 22.04.2010 dismissed his claim for seniority and for payment of personal pension. Moreover the applicant in this application is challenging the seniority lists for the years 1983 and 1986 which is barred by limitation. Hence, the application is liable to be dismissed.

3. Accordingly, the application is dismissed at the diary stage.”

2.11 Thereafter, the applicant filed an OA 1128/2010 seeking quashment of order dt. 01.04.2009 passed by the 2nd respondent therein revising his pension pursuant to the order of the Hon'ble High Court in WP 31172/2005 dt. 06.09.2007. He also prayed for personal pension and equal pay on par with his junior from 24.06.1974 to 30.11.2009 with consequential benefits.

This Tribunal dismissed the OA by order dt. 02.02.2011 in the following manner:

“8. The applicant's request for payment of personal pension and for fixing his seniority on par with that of Shri K. Natarajan has been dismissed by the Hon'ble High Court of Madras in WP No. 24984/2009. Therefore the only the question remaining to be considered is whether the orders of the respondents dated 17.6.2009 are in accordance with the directions of the Hon'ble High Court in WP No. 31172/05. As per these orders the pay of the Shri K. Natarajan and the applicant is Rs. 2375 with effect from 1.1.1986. The direction of the Hon'ble High Court of Madras in WP No. 31172/2005 was to fix the pension of the petitioner on par with the pay drawn by Shri K. Natarajan and since Shri K. Natarajan was promoted with effect from 1.1.1984 this Tribunal sought for a clarification as to whether fixing of pay of the applicant on par with Shri K. Natarajan with effect from 1.1.1984 will have any effect on the amount of pension. Following this the respondents issued a clarificatory order to the memo No. U/P524/III/Comml/TTEdated 1.4.2009 in order No. U/P353/OA1128/10 dated 17.1.2011. The comparative statement of the pay of the applicant and that

of Shri K. Natarajan as indicated in this order as shown below:

<i>Pay of Shri P. Silas Vijayakumar</i>	<i>Pay of Shri K. Natarajan</i>
1.1.1984 550-750 Rs. 675	1.1.1984 550-750 Rs. 675
1.1.1984 700-900 Rs. 730	1.1.1984 700-900 Rs. 730/-
1.1.1985 700-900 Rs. 760	1.1.1985 700-900 Rs. 795
1.1.1986 700-900 Rs. 795	1.1.1986 700-900 Rs. 795
1.1.1986 2000-3100 Rs.2375	1.7.1986 2000-3200 Rs.2375
(In compliance of the orders of the Hon'ble High Court in WP No. 31175/2005, the applicant was given the pay vide memorandum dated 1.4.2009. His pension was fixed accordingly and arrears paid)	((Pay fixed in IV the CPC Scales from July 1986, due to postponement of annual increment on punishment)

8. It is also indicated in this order that Shri K. Natarajan retired from service on 30.11.2009 and since he has earned further increment his pay at the time of his retirement was Rs. 23600 + GP 4600/- in the scale of pay of Rs. 9300-34800/- and his pension was fixed at Rs. 14000/- But since the applicant retired from service on 30.6.1986 his pay can be equalised with that of Shri K. Natarajan as on 30.6.1986 only. It is seen from the clarificatory order dated 17.1.2011 that the applicant's pay was equated with that of Shri K. Natarajan as on 1.1.1984. The basis for arriving at the pension of Rs. 1122/- from 1.7.1986 indicated by the respondents in the clarificatory order is as shown below:

“The pension of the applicant was revised further to implement the orders of the Vth Central Pay Commission with effect from 1.1.1996, and VI th CPC w.e.f 1.1.2006 and the pension of the applicant by giving him the pay of Rs. 2375/- from 1.1.1986, has been fixed correctly vide memorandum dated 1.4.2009. His pay of Rs. 760/- for four months from 1.9.1985 and Rs. 795/- (Rs. 2375 in IV CPC scales) was taken for arriving the ten months average of pay for the calculation of pension is as follows:

$$(Rs. 760+202.50(ADA I) + 938.60 (ADA II) + 146(IR)=2047.10)$$

For four months 2047.10 x 4	8188.40
For six months 2375 x 6	14250.00
Total	22438.40
The average is 22438.40 x 10	2243.84
Pension calculated at 50% of 2243.84	1121.42

The amount was rounded off to Rs. 1122/- and basic pension was fixed at Rs. 1122/- from 1.7.1986.”

9. They have further indicated that the basic pension was revised as Rs. 3385/- with effect from 1.1.1996 and as Rs. 7678/- with effect from 1.1.2006 on the basis of the recommendations of the 5th and 6th Central Pay Commissions and arrears of pension amounting to Rs. 44033/- was also paid to the applicant.

10. In view of these submissions of the respondents and the clarificatory order No. U/P353/OA1128/10 dated 17.1.2011 there is no merit in the claim raised by the applicant to set aside the order No. U/P524/III/Comm/TTE dated

1.4.2009.

11. The OA is therefore dismissed.
12. No costs.”

2.12. The applicant preferred a WP (MD) 8676/2011 before the Madurai Bench on the Hon'ble Madras High Court challenging the order dt. 01.04.2009 and the order of this Tribunal dt. 02.02.2011 cited supra and seeking a direction to the 1st and 2nd respondent therein to correct and refix his pension on par with Mr. Natarajan from the date of his promotion as Head Ticket Collector ie., 24.06.1974, based on the order passed in WP 31172/2005 dt. 06.09.2007. The said WP (MD) 8676/2011 was dismissed by order dt. 01.04.2013 and the order of this Tribunal dt. 02.02.2011 in OA 1128/2010 was confirmed. It was held as follows:

“11. It is an admitted fact that the order passed by this Court in WP No. 24984 of 2009 dated 22.04.2010 has attained finality and has not been challenged in any manner known to law. A reading of the order of this Court shows that the claim of the petitioner for stepping up of personal pension was rejected by this Court, on the ground that those who had opted to come under the IV Central Pay Commission scale of pay were not granted personal pay and the contempt petition filed by the petitioner in this regard was dismissed, holding that the order passed in WP No. 31172 of 2005 was complied with. Thus, after the decision of this Court on this aspect, the question is no longer res integra for the petitioner to re-agitate the same. Secondly, as far as the issue as regards pay passed in the above-said writ petition, this Court had also gone into the order dated 01.04.2009 consequent on the order made in WP No. 31172 of 2005 and rejected the petitioner's contention. It is also a matter of record that the contempt petition preferred by the petitioner alleging non-compliance of the order passed in WP No. 31172 of 2005 was also rejected by this Court. In the circumstances, the re-calculation of the pension payable to the petitioner with effect from 01.07.1986 cannot be a subject of re-agitation or a review before this Court. The respondents have placed before this Court the calculation done and the arrears paid to the petitioner. In the background of the orders passed in the contempt petition rejecting the claim and in the writ petition viz., WP No. 24984 of 2009, they having attained finality, we do not find any justifiable ground to grant the relief to the petitioner.

12. It may be noted that this is the third round of litigation by the petitioner on his claim seeking parity of pay with K. Natarajan and the second round of litigation after the contempt petition on the order passed consequent on the direction given in WP No. 31172 of 2005. With the findings of this Court as regards the grant of pay parity and the increments given to K. Natarajan as a

sports person as per the Rules, we do not find any ground to interfere with the order passed.

13. We may note herein that the calculation given by the respondents shows the details regarding the payment of DCRG arrears and the difference in encashment of leave salary. If the petitioner has any grievance on these two aspects, namely, DCRG arrears and encashment of leave salary, it is open to the petitioner to approach the respondents as regards the calculation on the above-said heads. On other issues, we do not find any justifiable ground to interfere with the order of the Tribunal.

Accordingly, the writ petition stands dismissed. No costs.”

2.13. Thereafter, the applicant filed a CP 2148/2013 in WP 31172/2005 seeking action against the respondents therein for wilful disobedience of the order dt. 06.09.2007 in the said WP. The Hon'ble Madras High Court dismissed the CP by order dt. 23.10.2013 as follows:

“6. According to the petitioner, he has not approached the respondent for DCRG arrears and encashment of leave salary and the grievance of the petitioner is that the order of this Court dated 06.09.2007 in WP No. 31172 of 2005 has not been complied with and therefore there is a wilful disobedience on the part of the respondents. The very same contention was raised before the earlier contempts petition filed in Cont. P. No. 680 of 2008 which was dismissed by this Court on 02.11.2009.

7. In view of the said order passed in Contempt Petition No. 680 of 2008 dated 02.11.2009, the second contempt petition filed by the petitioner on the very same ground is not maintainable. Hence, this contempt petition is dismissed.”

2.14. The applicant again approached the Hon'ble Madras High Court in WPMPSR No. 95487 / 2015 in WP 31172/2005 seeking the following relief:

“For the reasons stated in the accompanying affidavit, the petitioner prays that this Hon'ble Court may be pleased to make the respondent liable to be dealt with in accordance with law for deliberately acted against relevant rules and disobeying the authority of High Court and drastic action against officials, misled the Hon'ble Court by giving false evidence for 40 years, wasted precious time and thus render justice.”

The Hon'ble High Court passed order dt. 06.04.2016 rejecting the petition as not maintainable in the following manner:

“5. The Registry has raised a doubt regarding maintainability of this petition

and that is how this petition is listed before this Court as a Specially Ordered Matter.

6. We have heard the petitioner, who has appeared in person and we have also perused the records carefully.

7. At the outset, we have to say that the prayer made in the writ petition cannot be granted at all for more than one reason. First of all, this petition is based on the order of this Court made in WP No. 31172 of 2005. Originally the petitioner had a grievance that the order of this Court in WP No. 31172 of 2005 was not strictly complied with and that was examined in detail in Cont. P. No. 680 of 2013 by a Division Bench of this Court and the Division Bench found that the order of this Court in WP No. 31172 of 2005 has been substantially complied with. Further, the order of this Court in WP No. 31172 of 2005 has become final also. The petitioner has got no grievance against the order made in WP No. 31172 of 2005. When that be so, it is not understandable as to how the present petition could be maintained on the allegation that the respondents have deliberately acted against the relevant rules and disobeying the authority of the High Court. This Court has already held in the Cont. P. No. 680 of 2008 that the order of this Court in WP No. 31172 of 2005 has been duly complied with. The petitioner further alleges that the respondents have deliberately acted against the relevant rules. If that is his grievance, he could workout his remedies elsewhere in the manner known to law and for that, the question of initiating proceedings for perjury is not possible. Further, after the disposal of the writ petition on merits, no miscellaneous petition is maintainable.

8. In our considered view, this petition is not at all maintainable and it is a waste of time of this Court. Therefore, this petition is rejected as not maintainable.”

2.15. Since according to the applicant, his grievances have not yet been redressed, he has filed this MA before this Tribunal.

3. The respondents have filed their reply statement to the MA contesting the claim of the applicant. It is stated as follows:

3.1. With regard to the 1st relief prayed by the applicant, the respondents submit that after the Hon'ble Madras High Court dismissed the WP 1409/2000 filed by the respondents against the order of this Tribunal in OA 901/1997 dt. 06.08.1999, the respondents passed the order dt. 28.01.2002 revising the applicant's pension from Rs. 1035/- to Rs. 1078 w.e.f. 01.07.1986. Whereas the applicant is now claiming his pension at Rs. 997/- in the MA which is Rs. 81/- less than the pension amount sanctioned

to him w.e.f., 01.07.1986. With regard to the applicant's claim for arrears, it is submitted that in the order dt. 28.01.2002, the bank authorities were advised to arrange the payment of arrears of pension arising out of the refixation of pension at Rs. 1078/-.

3.2. With regard to the second relief prayed by the applicant, the respondents submit that it is beyond the scope of the OA 644/2002 in which this MA is filed. Besides, the claim for quashing the memorandum dt. 01.04.2009 was rejected by this Tribunal in OA 1128/2010. Further the WP (MD) No. 8676/2011 challenging the order in OA 1128/2010 was also dismissed by the Madurai Bench of the Hon'ble Madras High Court by order dt. 01.04.2013. Accordingly, it is contended that the second relief prayed is not liable for consideration.

3.3. With regard to the 3rd relief prayed by the applicant, the respondents submit that it is also beyond the scope of the OA 644/2002. It is further submitted that the applicant had prayed for the same relief in OA 1128/2010 and the said OA was dismissed by order dt. 02.02.2011 on the ground that the applicant retired on 30.06.1986 and his pay can be equalled with Shri. K. Natarajan as on 30.06.1986. The WP 8676/2011 filed by the applicant against the order of this Tribunal in OA 1128/2010 was also dismissed by order dt. 01.04.2013. Since the applicant did not challenge the above orders, the order of this Tribunal in OA 1128/2010 has become final and the 3rd relief claimed is also liable to be rejected.

3.4. With regard to the 4th relief claimed by the applicant, it is submitted that although the applicant had prayed for personal pension in OA 644/2002, no order with regard to the same was passed in the order dt. 20.03.2003 in the said OA. Moreover, the applicant's claim for personal pension was rejected by the Hon'ble High Court and the Hon'ble High Court had categorically held that since the petitioner had opted for 4th CPC, he is not entitled for payment of personal pension and the order in WP 31172/2005 had been substantially complied with by the respondents. Also, the claim by the applicant for personal pension was rejected by the Hon'ble High Court in WP 24984/2009 which was dismissed by order dt. 22.04.2010. Hence, it is submitted that the claim for personal pension is also liable to be rejected.

3.5. With regard to the 5th prayer of the applicant claiming for retirement benefits such as difference on 60 days LAP, encashment of LHAP and difference in DCRG are beyond the scope of the relief prayed by the applicant in OA 644/2002. Hence, it is contended that the 5th relief is also liable to be rejected.

3.6. With the regard to the 6th relief claimed by the applicant for revision of seniority list of Rs. 425-640 is also beyond the scope of OA 644/2002 as there was no such prayer in the said OA. Further, it is submitted that the same relief was claimed by the applicant in Dy. No. 6373/2010 and this Tribunal by order dt. 20.10.2011 rejected the applicant's

claim for revision of seniority lists dt. 01.02.1983 and 01.03.1986 stating that the application is barred by limitation and accordingly dismissed the same at diary stage. It is contended that the claim for revision of seniority lists after a lapse of more than 30 years is not tenable. Hence, it is submitted that the relief claimed is also liable to be rejected.

3.7. With regard to the 7th relief claimed by the applicant, the respondents submit that the applicant is not entitled for any further payment. In support to this contention, the respondents submit that the CP 680/2008 filed by the applicant in WP 31172/2005 was dismissed by the Hon'ble Madras High Court specifically stating that the order in the said WP was substantially complied with. Also, the CP 2148/2013 filed in the same WP was also dismissed. Accordingly, it is submitted that the 7th relief claimed is also liable to be rejected.

3.8. Accordingly, the respondents pray for the dismissal of this MA.

4. Since the applicant is appearing in person and is also hard of hearing, the Tribunal with the consent of the parties, requested Shri. Karthik Rajan, advocate present in the Court to assist the applicant in making his submissions.

5. Accordingly, heard the applicant appearing in person. He insists for the reply statement to be filed by the respondents in a parawise manner. Since the respondents have already filed a detailed reply, the submission of the applicant that the reply should be filed in a parawise manner is not

liable to be accepted.

6. Having heard the applicant, the learned counsel for respondents and the amicus curiae, Shri Karthik Rajan, at length, after careful scrutiny of records, it is evident that this MA in OA 644/2002 is not liable to be held maintainable.

7. Accordingly, MA not being maintainable, stands dismissed. No costs.

(B. Bhamathi)
Member(A)
01.02.2018

SKSI