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W.A.No.655 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2023

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A.No.655 of 2020
and C.M.P.No.9248 of 2020**

- 1.The Director of Elementary Education
College Road, Chennai-600 006.
- 2.The District Elementary Educational Officer
Villupuram, Villupuram District.
- 3.The Assistant Elementary Educational Officer
Thirunavalur, Villupuram District.

... Appellants

-Vs-

- 1.P.Arockiasamy
(Retired Headmaster)
Mathankulam Street, Irunthai Post
Ulunthoorpettai Taluk
Villupuram District.
- 2.The Correspondent
R.C.Primary School, Mathampattu
Thiruvannainallur, Villupuram.
- 3.The Accountant General of Tamil Nadu
Chennai 600 018.
- 4.The Manager
R.C.Primary and Middle School
Cuddalore-607 001.

... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order in
W.P.No.25000 of 2003 dated 18.12.2017.



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For Appellants : Mr.K.V.Sajeew Kumar
Special Government Pleader

For Respondents : Mr.Jim Raj Milton - for R1
Sr.A.Arul Mary
for M/s.Fr.Xavier Associates - for R2 and R4
Ms.T.S.Selvarani
Standing Counsel - for R3

J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This appeal has been directed against the order passed by the writ Court dated 18.12.2017 made in W.P.No.25000 of 2003.

2. That the first respondent in the appeal was working as Teacher in the second respondent school and subsequently promoted as Headmaster of the school and he retired on superannuation on 31.05.1999. Since the first respondent had been in the same post for 30 years, as per G.O.Ms.No.562, Finance (PC) Department dated 28.09.1998, he is entitled to get a special bonus by way of increment. In fact, that was allowed already by the competent authority. However, by order dated 31.03.1999, the competent authority ie., the Additional Assistant Education Officer for Primary Education, Thiruvannainallur, had cancelled or withdrawn the said concession extended to the first respondent.

3. It is further to be noted that, before the first respondent superannuated in the 1999, while he was working in the year 1996, he had acquired higher



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qualification of M.A., and B.Ed., degree. Therefore, in order to get two advance incentive increments for having acquired higher qualification, the first respondent teacher had made several requests and representations to the appellant Department and one such request was forwarded by the second respondent school to the Educational Officer on 12.10.2007, which reads thus,

"மேலே குறிப்பிடப்பட்ட திரு.ஆரோக்கியசாமி, தலைமை ஆசிரியர், மாதப்பட்டு, 31.05.1999 மாலையோடு ஓய்வு பெற்று விட்டார். இவர் ஓய்வு பெறும் முன்னரே M.A., B.Ed., தேர்ச்சி பெற்றதற்கான 4 ஊக்க ஊதிய உயர்வும், மொத்த பணிக்காலம் தலைமை ஆசிரியராகவே 30 ஆண்டுகள் முடிந்ததற்கான ஒரு போனஸ் ஊக்க ஊதிய உயர்வும் பெறாமலேயே ஓய்வு பெற்று விட்டார். கருணை கூர்ந்து இவருக்கு அளிக்கப்படவேண்டிய பண பலன்கள் அத்தனையும் நிர்வாகம் பரிந்துரையின் அடிப்படையில் விதிமுறைகளுக்கு உட்பட்டு அளித்திட வேண்டுமாய் இதன் மூலம் பரிந்துரை செய்யப்படுகிறது."

4. When the request of the first respondent for seeking two advance incentive increment for having acquired higher qualification was pending consideration since the order dated 31.03.1999 was issued, ie., two months prior to the superannuation of the first respondent, he was constrained to challenge the said order dated 31.03.1999 along with a prayer to seek for advance incentive increment for having acquired two higher educational qualification viz., M.A., and B.Ed.

5. The said writ petition since had been filed with the aforesaid prayer, having been heard, was allowed by the learned Judge through the order impugned dated



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18.12.2017, whereby the order dated 31.03.1999 was set aside. Consequently, a direction was given to give the 30 years bonus by way of incentive increment as well as two advance increment for having acquired higher qualification from the date of acquiring the qualification and therefore, calculating the said amount, the pension payable to the first respondent herein / petitioner therein shall be revised. That was the order passed by the learned Judge, against which the present appeal has been directed.

6. Assailing the said order, Mr.K.V.Sajeev Kumar learned Special Government Pleader appearing for the appellants would contend that, though originally the 30 years bonus increment was extended to the first respondent, since certain clarification was sought for in G.O.Ms.No.562, it became necessitated for the authority concerned to withdraw the said extension of the benefit. When that was questioned before the writ Court, additionally the writ petitioner / first respondent has sought for further relief seeking advance incentive increments for the two higher qualification acquired by him from the date of acquiring the qualification.

7. The learned Judge while dealing with the said issue in the order impugned, has allowed the writ petition in toto by setting aside the order dated 31.03.1999 and also directed to extend the benefit of incentive increment for having passed M.A., and B.Ed., degree from 25.09.1996.



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8. In this context, the learned Special Government Pleader would rely upon G.O.Ms.No.307, School Education Department dated 15.12.2000, under which those advance incentive increments for having acquired higher qualification has been provided from the date of issuance of the Government Order and not from the date of acquiring of the higher qualification.

9. Outside the scope of G.O.Ms.No.307, no such increment can be extended or provided for having acquired higher qualification. Therefore, within the meaning of G.O.Ms.No.307, if at all the benefit had to be extended that should be only extended from the date of the Government Order viz., 15.12.2000 and not from the date of acquiring the qualification. Therefore, to that extent the impugned order passed by the learned Judge is erroneous, learned Special Government Pleader contended.

10. He would also submit that the first respondent was initially appointed on 01.07.1965. Thereafter, Selection Grade was given to him on 01.07.1975 and Special Grade was conferred on 01.07.1985 and promotion was given as Primary School Headmaster with effect from 01.06.1988. He retired from service in 1999. Therefore, it must be noted that, for getting such a bonus for having stagnated in single post for 30 years and more, the incumbent must have been in single post for 30 years. Here, if at all the first respondent had been continuing in the post from 01.07.1965, the 30 years period would be completed in 1995, but before which ie.,



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in 1988 he was given the post of Primary School Headmaster. Therefore, it cannot be stated that he has stagnated in single post for 30 years. Citing all these reasons, the learned Special Government Pleader seeks the indulgence of this Court against the impugned order.

11. We have also heard Mr.Jim Raj Milton, learned counsel for the first respondent, Sr.A.Arul Mary for M/s.Fr.Xavier Associates, learned counsel appearing for the respondents 2 and 4 and Ms.T.S.Selvarani, learned Standing Counsel appearing for the third respondent.

12. Learned counsels for the respondents would submit that, though on 01.07.1965 the first respondent was appointed in the second respondent school, at the time of the initial appointment itself he was appointed only as a Headmaster, the reason being that, in those days these kind of schools were managed or manned only by a single teacher with the concept of 'single teacher school'.

13. Therefore, single teacher would act as Headmaster also as there could be no further Headmaster available in those single teacher schools. When that being so, for all practical purposes since the first respondent had been appointed and has been acting upon only as Headmaster of the school concerned right from 01.07.1965, assuming that functionally further promotion was given on 01.06.1988 when the school has been expanded after 25 years or more, it cannot be stated that



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the services rendered by him for nearly about 30 years from 1965 as Headmaster of the primary school cannot be calculated for the purpose of 30 years service in single post for extending the benefit of the bonus.

14. Insofar as the advance incentive increment is concerned, the learned counsel for the respondents would contend that G.O.Ms.No.307 though has come into effect only on 15.12.2000, before which if a qualification is acquired, those teachers who have acquired the higher qualification were entitled to get such incentive increment from the date of acquiring the qualification. This position has been subsequently reiterated in various Government Orders. First such Government Order that was issued is G.O.Ms.No.29, School Education Department dated 17.02.2006 and subsequently G.O.Ms.No.100, School Education Department dated 30.04.2007 was issued, under which the necessary rule has been amended for the sanction of incentive increment as ordered in the said G.O.Ms.No.29, School Education Department dated 17.02.2006. Therefore, under these Government Orders, as per the rule, whoever is eligible for advance incentive increment would be eligible to get the same from the date of acquiring the higher qualification. Therefore, the learned counsels would contend that there is absolutely no infirmity in the order passed by the writ court directing the appellant Department to extend the benefit of advance incentive increment from the date of acquiring the qualification and, in this case since the first respondent had acquired qualification in the year 1996, that is what has been allowed by the learned Judge through the impugned



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order. Therefore, that does not warrant any interference from this court, they contended.

15. We have heard the submissions made by the learned counsel appearing for both sides and have perused the materials placed before us.

16. Insofar as the first issue with regard to the order dated 31.03.1999 is concerned, as has been stated by the learned counsel for the respondents, the first respondent was appointed initially on 01.07.1965 in a 'single teacher school'. Therefore, at that time he was appointed in the school as Teacher-cum-Headmaster and that position continued for all these years. Though on 01.06.1998 he had been given a regular promotion to the post of Headmaster as a functional position, that will not alter the position of the service rendered by him all these years as Headmaster. Therefore, for all practical purposes especially for the purpose of G.O.Ms.No.562 dated 28.02.1998, the services of the first respondent can be taken as service in the single post ie., Primary School Headmaster for 30 years and more. Therefore, he is eligible to get such bonus for 30 years stagnation by way of increment. To that extent, the cancellation that has been made through the order dated 31.03.1999 is bad in law. Therefore, the learned Judge set aside the order, of course rightly.



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17. Insofar as the advance incentive increment which was sought for, for having acquired higher qualification of M.A., and B.Ed., is concerned, though such a benefit can be extended as per G.O.Ms.No.307 dated 15.12.2000 under which the financial benefit can be extended only prospectively from the date of the Government Order ie., with effect from 15.12.2000, subsequent Government Orders issued in this regard ie., G.O.Ms.No.29, School Education Department dated 17.02.2006 and G.O.Ms.No.100, School Education Department dated 30.04.2007, amended the rule enabling the teachers who have acquired higher qualification, to get such incentive increment to a maximum of two increments from the date of acquiring such qualification. Here in the case in hand, the first respondent since has acquired the higher qualification sometime in 1996, from that date he is entitled to get such advance incentive increment. Therefore, to that extent also the direction given by the learned Judge in the impugned order cannot be found fault with.

18. In that view of the matter, we do not feel that the impugned order is liable to be interfered with and it has to be sustained. Accordingly, the impugned order is sustained and the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

(R.S.K., J.) (G.A.M., J.)
23.11.2023

Index : Yes/No
Internet : Yes/No
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To

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