

Party Name : RAMA MAJUMDER Vs STATE OF TRIPURA & ORS

THE HONBLE MR. JUSTICE S.TALAPATRA

Heard Mr. K. Nath, learned counsel appearing for the petitioner as well as Ms. A.S. Lodh, learned Addl. G.A. appearing for the respondents.

The short grievance that falls for consideration is that whether the petitioner is entitled to get the benefit of training incentive in the form of one increment or not.

The facts are mostly admitted. The petitioner was initially appointed as Assistant Teacher by virtue of the memorandum dated 29.08.2002, Annexure-P/2 to the writ petition. During her incumbency, the petitioner was permitted to prosecute the course of Bachelor in Education in the Distance Education system as a private candidate from the Tripura University. As stated, due permission was accorded by the competent authority, by the memorandum dated 20.11.2008, Annexure-P/3 to the writ petition. The petitioner has successfully completed that course. The result was published on 10.08.2009, as would be evident from the mark sheet as available at Annexure-P/4 to the writ petition. Thereafter, the petitioner had applied for the said incentive but the incentive was not granted to the petitioner. But by the memorandum dated 12.08.2013 a lump sum incentive was accorded in favour of the petitioner.

Being aggrieved by that decision, the petitioner has approached this Court by filing this writ petition and before that she had filed a representation to the competent authority which was duly forwarded from the school by the communication dated 06.08.2014, Annexure-P/9 to the writ petition. But that did not yield any positive result.

Mr. K. Nath, learned counsel appearing for the petitioner has drawn notice of this court to the notification dated 06.01.2011 where it has been provided that:

"The employee who had completed the full training course and appeared in the end of the term examination prior to 05.05.2009 i.e. before publication of the TSCS(RP) Rules, 2009 and passed the examination in all subjects in one attempt, shall be exempted from the operation of Rules 13(1)(v) and will be entitled to training incentive in the form of advance increment."

Mr. Nath, learned counsel appearing for the petitioner has submitted that the petitioner had appeared in the examination before 05.05.2009 and to be precise, in the month of January, 2007. This particular aspect has not been disputed by the respondents. But the respondents as represented by Ms. A.S. Lodh, learned Addl. G.A. has explained why the petitioner was not granted the training incentive in Para-4 of their counter affidavit. The relevant part of the said counter affidavit is extracted hereunder:

"I state that Rule 13(V) of the TSCS(RP) Rules 2009 provided lump sum incentive grant w.e.f. 01.01.2009 for the teachers who have completed one year training on or after 01.01.2009. In the fifth amendment to the TSCS(RP) Rules 2009 provided that the employees who had completed full training course and appeared in the end of term examination prior to 05.05.2009 i.e. before publication of the TSCS(RP) Rules 2009 and passed the examination in all subjects in one attempt, shall be exempted from the operation of Rules 13(1)(V) and will be entitled to training incentive in the form of advance increment (Annexure-P-5 of the writ petition). It is pertinent to mention here that the petitioner successfully completed the examination on 01.08.2009 i.e not before publication of the TSCS(RP) Rules 2009. As such she is not entitled to @@@@training incentive in the form of advance increment@@@@ and the instant petition has no merit."

Ms. Lodh, learned Addl. G.A. has emphatically submitted that unless the result is published before 05.05.2009, benefit of advance increment cannot be accorded in terms of the notification dated 06.01.2011.

Having regard to the explanation made in the notification dated 06.01.2011, Annexure-P/5 to the writ petition, this Court is unable to accept the said proposition as advanced by learned Addl. G.A. appearing for the respondents. The explanation as reproduced above has clearly stated that the appearance 'in the end of the term examination' shall be prior to 05.05.2009. When the words 'appeared@@@@ or 'appear' are used it cannot under any stretch of interpretation, be allowed to mean as @@@@publication of the result@@@@. Hence, the respondents are directed to recall the memorandum dated 12.08.2013, Annexure-P/7 to the writ petition forthwith. They are further directed to release the training incentive by allowing the petitioner one advance increment within a period of 2(two) months from today. Arrears, if any, shall be also paid within that period as prescribed by this Court.

Accordingly, this writ petition stands allowed.

There shall be no order as to costs.