

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.11251 of 2014
and
M.P.No.1 of 2014

Dr.M.Balasubramanian

... Petitioner

Vs.

1. The Commissioner of Technical Education,
Guindy, Chennai-25.

2. The Principal,
P.S.G. College of Technology,
Peelamedu,
Coimbatore-4.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned letter issued by the 1st respondent in Letter No.Pa.Mu.7261/A4/2014 dated 19.3.2014 and quash the same and consequently direct the respondents to sanction and disburse three incentive increments to the petitioner for acquiring Ph.D. degree with effect from 17.09.2010 as per G.O.Ms.No.95, Higher Education Department dated 05.05.2010 in the Revised Scale with arrears and other consequential monetary benefits.

For Petitioner : Mr.N.Balamuralikrishnan
for Mr.K.T.S.Sivakumar

For Respondents : Mr.S.Gunasekaran
Government Advocate for R1
Mr.A.Jenasenan for R2

O R D E R

By consent, this writ petition is taken up for final disposal.

2. The petitioner, in the affidavit filed in support of this writ petition, would state that at present he is working as Associate Professor, Department of Mathematics in the second respondent College and he was initially appointed as Lecturer in Mathematics on 09.06.1994 and became Senior Grade Lecturer on 29.04.2000 and thereafter got into the position of Selection Grade Lecturer on 29.04.2005. The petitioner completed Ph.D. Degree in the year 17.09.2010 in the discipline of Mathematics from Bharathiyar University while he was working as Selection Grade Lecturer. The petitioner was subsequently promoted as Associate Professor on 02.03.2012. The petitioner would further state that the Government passed G.O.Ms.No.95, Higher Education Department dated 05.05.2010 providing for revision of scales of pay and allowances etc. to the teachers and equivalent cadres in Technical Universities, Government and Government Aided Engineering Colleges governed by All India Council for Technical Education and Clause (iv) of Appendix-II reads as under:

"Teachers who complete their Ph.D. degree while in service shall be entitled to three non-compounded increments if such Ph.D. is in the relevant branch/discipline and has been awarded by a university complying with the process prescribed by the University Grants Commission for enrolment, course-work and evaluation etc. If Ph.D is prescribed as an essential qualification for the post, no essential increment shall be given. This would not be eligible if a person has got incentive increments for Ph.D. in any other relevant discipline."

(emphasis supplied)

The grievance expressed by the petitioner is that while he was working as Selection Grade Lecturer, he acquired Ph.D. degree in the discipline of Mathematics and admittedly for the post of Selection Grade Lecturer, Ph.D. is not an essential qualification and only for the post of Associate Professor and above, it is an essential qualification and admittedly, before getting promoted as Associate Professor, the petitioner has acquired Ph.D. in the discipline of Mathematics and as such, he is entitled to three increments and in this regard, he has also submitted a representation dated 06.09.2013 to the first

respondent and it was rejected, vide impugned order dated 19.03.2014 stating that as per the above cited Government Order, the petitioner is not entitled to three non-compounded increments.

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set and additional typed of papers and would submit that the second respondent has also made a positive recommendation to the first respondent on 10.02.2012 and inspite of it, the first respondent, without properly applying his mind to Clause (iv) of Appendix-II to G.O.Ms.No.95 dated 05.05.2010, has unjustly rejected his request for the entitlement of the petitioner for three non-compounding increments and prays for interference.

4. Per contra, Mr.S.Gunasekaran, learned Government Advocate appearing for the first respondent would submit that for the post of Associate Professor acquiring Ph.D. is an essential qualification and therefore, the petitioner is not entitled to three non-compounding increments and hence, the first respondent, after due and proper application of mind, has rightly rejected the request of the petitioner.

5. The learned counsel appearing for the second respondent would submit that in the light of the above said clause in G.O.Ms.No.95 dated 05.05.2010, the petitioner is entitled to get three non-compounding increments and accordingly, the second respondent made a positive recommendation to the first respondent.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. Admittedly, the petitioner has acquired Ph.D. in the discipline of Mathematics while he was working as Selection Grade Lecturer and it is not an essential qualification to hold that post. The petitioner has acquired Ph.D. degree in the discipline of Mathematics on 17.09.2010 and he was promoted as Associate Professor on 02.03.2012 and for entering into the post of Associate Professor, Ph.D degree is an essential qualification. The moot question for consideration is whether acquirement of Ph.D. degree in the field of Mathematics while working as Selection Grade Lecture, enables the petitioner to get increments? In the considered opinion of the Court, for holding the post of Selection Grade Lecturer, acquirement of Ph.D degree is not an essential qualification and Clause No.(iv) of Appendix-II to G.O.Ms.No.95 dated 05.05.2010 would also state so.

8. In the result, this Writ Petition is allowed and the order dated 19.03.2014 in Letter No.Pa.Mu.7261/A4/2012 passed by the first respondent is set aside and the first respondent is directed to consider the proposal of the second respondent dated 10.02.2012 positively in the light of the findings/observations made in this writ petition and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as the second respondent. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

jvm

To

1. The Commissioner of Technical Education,
Guindy, Chennai-25.
2. The Principal,
P.S.G. College of Technology,
Peelamedu,
Coimbatore-4.

+1cc to Mr.K.T.S.Siva Kumar, Advocate, S.R.No.58405

+1cc to the Government Pleader, S.R.No.58620

W.P.No.11251 of 2014

AR II

CA(29/10/2015)

WEB COPY