



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2016

CORAM :

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOohana RAO
and
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Appeal (MD) No.1114 of 2016

& C.M.P(MD)No.6872 of 2016

1.The District Elementary Educational Officer,
Ramanathapuram.

2.The Assistant Elementary Educational Officer,
Ramanathapuram.

... Appellants/Respondents 1 & 2

-Vs-.

Vadivelu

... Respondent/Writ Petitioner

Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 19.01.2016 in W.P.(MD)No.994 of 2016.

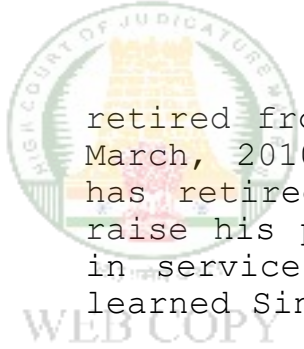
Prayer in WP(MD). 994/ 2016 :

Writ Petition is filed under Article 226 of the Constitution for issuance of a Writ of Certiorarified Mandamus calling for the records of the second respondent i.e., the Assistant Elementary Educational Officer, Ramanathapuram relating to Na.Ka.No.777/A1/2014 dated 25.08.2014 and quash the same and consequently direct the respondents to sanction increment to the petitioner which fell due on 01.04.2010 and consequently send revised pension proposals within a specified time frame that may be fixed by this Honourable Court.

For Appellants : Mr.V.R.Shanmuganathan
Special Government Pleader
For Respondent : Mr.S.Visvalingam

JUDGMENT

This appeal is preferred by the District Elementary Educational Officer, Ramanathapuram and another calling in question the correctness of the judgment rendered by the learned Single Judge, on 19th January, 2016 in W.P.(MD) No.994 of 2016.



retired from service on attaining the age of superannuation on 31st March, 2010. He drew his last increment on 01.04.2009. Since he has retired on 31st March, 2010, the respondents have declined to raise his pay by one increment, only on the ground that he was not in service on 1st April, 2010. This was found fault with by the learned Single Judge.

3. Heard Mr.V.R.Shanmuganathan, learned Special Government Pleader for considerable length of time.

4. An annual grade increment is liable to be sanctioned, as per Fundamental Rule 24, as a matter of course unless it is withheld as a measure of punishment. An annual grade increment is liable to be sanctioned to every Government servant upon completion of 12 month of satisfactory service. Since the dates of increment of Government servants are falling on various dates and various months, for easy reckoning, the State Government, as a policy, has started releasing the annual grade increment by grouping all the dates into four quarters, separated by three months each. For such of those candidates who earned their increment in the months of January, February and March, the increment will be sanctioned on 1st April, and for those who earned increment in the months of April, May and June, it will be sanctioned on 1st July and for those who earned increment in the months of July, August and September, it will be sanctioned on 1st October, and for those who earned their increment in the months of October, November and December, it will be granted on 2nd of January, being the next working day since 1st January happens to be a holiday. This grouping is resorted to only for the administrative convenience. In that process, the last increment of the writ petitioner/respondent was sanctioned to him on 01.04.2009 thereafterwards he has completed 12 calendar months of service to the State Government and that 12 months period was completed by 31st March, 2010. Normally, the salary and allowances payable for the month of March would have been paid on 1st of April. But, however, to avoid any inconvenience, the salaries are paid / disbursed on the last working day of the month itself. Keeping all these factors in mind, we are clearly of the view that the salary payable to the writ petitioner for having rendered services for the month of March, 2010 should have been paid to him adding the increment due and payable to him on 1st of April, 2010. That would have made a marginal difference in making him earn few more rupees of pension. In fact, the State Government has recognised the legitimacy behind such a claim and passed orders through G.O.Ms.No.311, Finance Department, dated 31st December, 2014, directing that the increment of a Government servant which falls due on the date following the date of superannuation, on completion of one full year of service, be sanctioned with one notional increment at the rate as prescribed under Rule 6 of the Tamil Nadu Revised Scales of Pay Rules, 2009, for the purpose of pensionary benefits only and not for any other purpose. The argument of the learned Special Government Pleader is that the orders of the Government contained in G.O.Ms.No.311, Finance Department, dated 31st December, 2014, are purely prospective



and the writ petitioner has retired prior thereto from service on 31st March, 2010, and hence, this principle should not be rendered applicable.

5. It is true that no order of the Government can be construed to have been made or brought forth into force with retrospective effect unless it has been specifically said so or by necessary implication it is construed to be so. But, however, what we have now upheld is the right of the writ petitioner to secure an incremental growth in his pay upon satisfactory completion of 12 months of service counted from 01.04.2009 upto 31st March, 2010. In that view of the matter, we have no hesitation to reject the contention of Mr.V.R.Shanmuganathan, learned Special Government Pleader that our order would amount to giving retrospective effect to the policy decision contained in G.O.Ms.No.311, Finance Department, dated 31st December, 2014. We find no merit in the Writ Appeal and accordingly, it stands rejected. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

srm

+1cc to M/S Special Government Pleader, Sr No. 38124

JAM/SKS-RR/1.09.16/3P-2C

Judgment in
Writ Appeal (MD) No.1114 of 2016
& C.M.P (MD) No.6872 of 2016

22.07.2016