

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.33512 of 2017

A.Sathiyamurthy

.. Petitioner

-vs-

1. State of Tamilnadu
rep. By its Principal Secretary,
School Education Department,
Fort St. George, Chennai - 600 009
2. The District Educational Officer,
Coimbatore .. Respondents

Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to grant the petitioner with annual increment which falls due on 01.01.2011 by taking into account the services rendered by the petitioner from 01.01.2010 till 31.12.2010 as per the Judgment of the Hon'ble Division Bench in W.A.(MD) No.1114 of 2016 dated 22.07.2016 and consequently revise the pensionary benefits of the petitioner.

For Petitioner :: Mr.G.Sankaran
for Mrs.Dakshayani Reddy
For Respondents:: Mr.E.R.A. Premnath,
Government Advocate

O R D E R

The Writ Petition has been filed by the petitioner for issuance of a Writ of Mandamus by directing the respondents to grant the petitioner with annual increment which falls due on 01.01.2011 by taking into account the services rendered by the petitioner from 01.01.2010 till 31.12.2010 as per the Judgment of the Hon'ble Division Bench of this Court in W.A.(MD) No.1114 of 2016 dated 22.07.2016 and consequently revise the pensionary benefits of the petitioner.

2. Learned counsel for the petitioner submitted that the petitioner had retired from the service as Deputy Inspector of Schools from the office of the District Educational Officer, Pollachi, Coimbatore with effect from 31.12.2010. Though the

annual increment fell due on 01.01.2011, he was paid with last annual increment only on 01.01.2010. Since he retired one day prior to 01.01.2011, he was denied the annual increment. Therefore, he has given a representation to the respondents, the same has not been considered, left with no other option, the petitioner has come forward with this Writ Petition before this Court.

3. Continuing further, learned counsel for the petitioner averred that the Government has issued G.O.Ms.No.311 dated 31.12.2014 providing annual increment to similarly placed persons, who retired one day prior to the due date of increment. But, the same has been restricted only from the date of the aforesaid Government Order, i.e., 31.12.2014. Further, he invited the attention of this Court to the Judgment passed by the Hon'ble Division Bench of this Court in W.A.(MD) No.1114 of 2016, wherein it is held that there was no hesitation to reject the contention of Mr.V.R.Shanmuganathan, learned Special Government Pleader and made it clear that the benefit of G.O.Ms.No.311, Finance (CMPC) Department dated 31.12.2014 would enure even to any employees, who retired prior to the said Government Order. The relevant portion of the order is extracted hereunder and the same benefit may be extended to the petitioner also, he pleaded :

"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 31.03.2010. 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."

4. Learned Government Advocate appearing for the Respondents seeks four weeks time to consider the representation of the petitioner, in the light of aforementioned Government Order.

5. Heard the learned counsel on either side and perused the documents available on record.

6. Admittedly, it is clear that the petitioner retired one day prior to the date of his retirement and the benefit of the G.O.Ms.No.311, Finance Department, dated 31st December, 2014 was given to those who retired after the date of the said G.O. However, the persons, who retired prior to the date of the said Government Order were denied. The Hon'ble Division Bench of this Court in W.A.(MD) No.1114 of 2016 on 22.07.2016 made it clear that the benefit of G.O.Ms.No.311, Finance (CMPC) Department dated 31.12.2014 would enure even to any employee, who retired prior to the said Government Order. Further, following the same, this Court in W.P.Nos.40770 to 40772 of 2016 had also considered the similar issue and allowed the Writ petitions, which is also given as under:

"5. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioners, this Court directs the petitioners to make a fresh / individual representation along with a copy of this order to the respondents 1 and 2 within period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondents 1 and 2 are directed to consider the same and pass appropriate orders, on merits and in accordance with law and also, in the light of G.O.Ms.No.311, Finance (CMPC) Department, dated 31.12.2014 and also as per the Judgment of the Division Bench of this Court made in W.A.(MD) No.1114 of 2016 (The Secretary to Government v. G.Nagendran) dated 22.07.2016, within a period of six weeks thereafter. All the writ petitions are disposed of accordingly. No costs."

7. In view of all the above, this Court has no impediment to allow the Writ Petition and the respondents are directed to consider the representation of the petitioner in the light of aforementioned Government Order within a period of four weeks from the date of receipt of copy of this order. In result, the Writ Petition stands allowed. No costs.

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

ssd

To

1. State of Tamilnadu
rep. By its Principal Secretary,
School Education Department,
Fort St. George, Chennai - 600 009

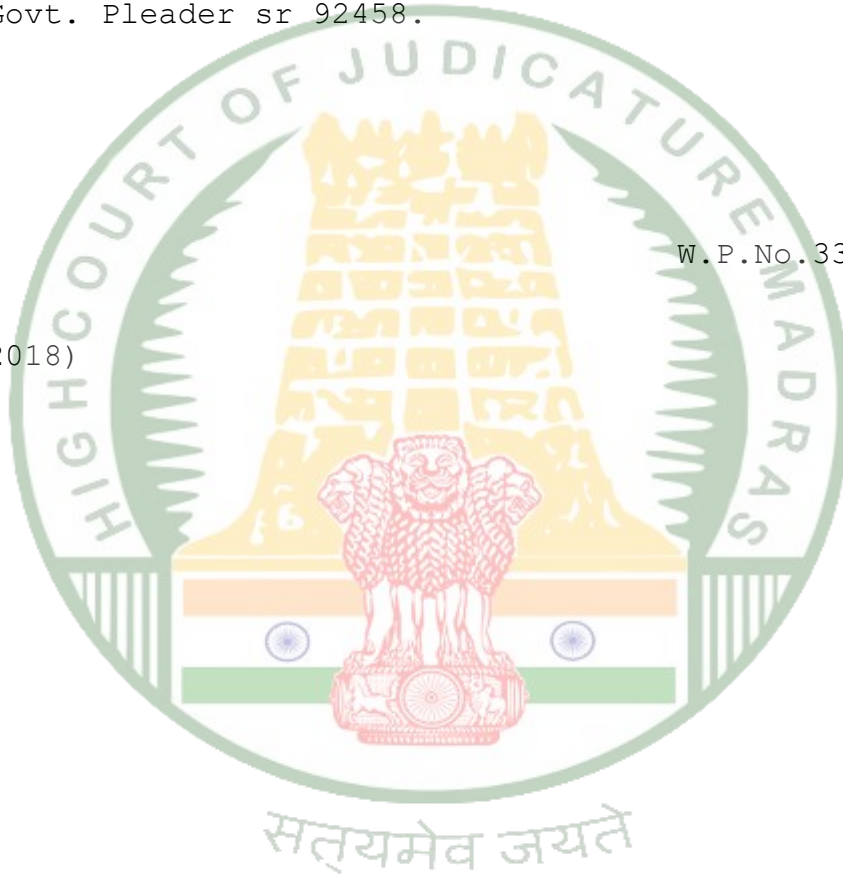
2. The District Educational Officer,
Coimbatore

+1 CC to Mrs.Dakshayani Reddy, Advocate sr 92076.

+1 CC to Govt. Pleader sr 92458.

W.P.No.33512 of 2017

SP(22/01/2018)



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