

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.44208 of 2016
and WMP.No.38046 of 2016

B.Asaithambi

.. Petitioner

vs.

1.The Chief Educational Officer,
Dharmapuri District,
Dharmapuri.

2.The Headmaster,
Government Higher Secondary School,
Pulikarai, Palacode Taluk,
Dharmapuri District.

3.The Regional Accounts Officer (Audit),
School Education Department,
Coimbatore-641 001.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents herein not to recover the amount granted as incentive increment and also not to refix the salary of the petitioner on the basis of the audit objection made by the third respondent in his proceedings in Na.Ka.No.969/E1/2009 dated 15.09.2009.

For Petitioner : Mr.J.Selvarajan

For Respondents : Mr.K.Dhananjayan,
Special Government Pleader

ORDER

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner is working as Secondary Grade Assistant at Government Higher Secondary School, Pulikarai, Palacode Taluk, Dharmapuri District and would further aver that he has completed Bachelor Degree in Tamil during 1987 and Master Degree in the year 1993 and thereafter acquired B.Ed., degree during 1995 and thus, he is eligible to be appointed as B.T. Assistant and he had also registered with the Employment Exchange. The petitioner would aver that as per G.O.Ms.No.301, School Education Department, dated 15.10.1999 though he is eligible to be appointed as B.T. Assistant, he was appointed as Secondary Grade Assistant on 20.09.1999 and a condition was also subsisting that such Secondary Grade Assistant cannot claim incentive increment for the Graduation and B.Ed. qualification. The petitioner would further aver that even at the time of initial appointment itself, he has been qualified in Master Degree in Tamil and after 10 years of appointment, while he was working at Government Higher Secondary School, Jakkasamudram, Dharmapuri District, he has been granted incentive increment for acquiring Master Degree in Tamil, vide proceedings dated 06.07.2009 and his salary was also refixed accordingly.

However, the third respondent vide proceedings dated 15.04.2009 has made an audit objection stating that the petitioner who had been appointed in the post of Secondary Grade Teacher is not entitled for increment for acquiring higher qualification in view of the conditions imposed at the time of appointment.

3. The learned counsel appearing for the petitioner would submit that the matter in issue is squarely covered by the Division Bench decision of this Court in *R. Premakumari v. State of Tamilnadu [2008 (5) MLJ 1349]* and also the order dated 13.10.2014 made in W.P.No.7381 of 2007 [O.A.No.6369 of 2002] wherein this Court has issued positive directions directing the respondents therein not to recover any amounts and to refix the pay also and since the petitioner is similarly placed, prays for appropriate orders.

4. Heard the submissions of Mr.K.Dhananjayan, learned Special Government Pleader who accepts notice on behalf of the respondents.

5. Though the petitioner has prayed for larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the first respondent to

consider and dispose of the petitioner's representation dated 23.06.2006 after taking note of the Division Bench decision of this Court in ***R. Premakumari v. State of Tamilnadu [2008 (5) MLJ 1349]*** and also the order dated 13.10.2014 made in W.P.No.7381 of 2007 [O.A.No.6369 of 2002] and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner and till such time, shall not effect any recovery.

6. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

04.01.2017

Index : Yes / No
Internet : Yes / No
jvm

To

- 1.The Chief Educational Officer,
Dharmapuri District, Dharmapuri.
- 2.The Headmaster,
Government Higher Secondary School,
Pulikarai, Palacode Taluk,
Dharmapuri District.
- 3.The Regional Accounts Officer (Audit),
School Education Department,

Coimbatore-641 001.

M.SATHYANARAYANAN. J

jvm

W.P.No.44208 of 2016

04.01.2017