

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.No.25000 of 2003

P.Arockiasamy

.. Petitioner

Vs.

- 1.The Director of Elementary Education,
College Road,
Chennai - 600 006.
- 2.The District Elementary Educational Officer,
Villupuram,
Villupuram District.
- 3.The Assistant Elementary Educational Officer,
Thirunavalur,
Villupuram District.
- 4.The Correspondent,
R.C. Primary School,
Mathampattu, Thiruvenai Nallur,
Villupuram.
- 5.The Accountant General of Tamil Nadu,
Chennai - 600 018.
- 6.The Manager,
R.C. Primary and Middle School,
Cuddalore - 607 001.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the third respondent in Na.Ka.No.599 Aa1/99, dated 31.3.1999 and quash the same, as illegal and improper and direct the respondents 1 to 3 to refix petitioner's salary for pensionary benefits by sanctioning two incentive increments (four advance increments) for passing M.A. and B.Ed., degree from 25.9.1996 and also the bonus increment for rendering more than 30 years of service in

the same post of Headmaster without any promotions an pay all arrears of monetary benefits arising from such refixing salaries.

For Petitioner : Ms.Selvi George

For Respondents : Mr.Digvijaya Pandian
Addl. Government Pleader
for respondents 1 to 3

Mr.Fr.Xavier Arul Raj
Senior Counsel
for M/s.Arul Mary
for respondents 4 and 6

Mr.V.Vijayashankar
for 5th respondent

ORDER

This writ petition has been filed by the petitioner seeking a writ of certiorarified mandamus to call for the records of the third respondent in Na.Ka.No.599 Aa1/99, dated 31.3.1999 and to quash the same, as illegal and improper and to direct the respondents 1 to 3 to re-fix petitioner's salary for pensionary benefits by sanctioning two incentive increments (four advance increments) for passing M.A. and B.Ed., degree from 25.9.1996 and also bonus increment for rendering more than 30 years of service in the same post of Headmaster without any promotions an pay all arrears of monetary benefits arising from such refixing salaries.

2. The case of the petitioner is that the petitioner was appointed as Headmaster on 1.7.1965 in the fourth respondent school, which is an aided school receiving grant from the Government of Tamil Nadu, and retired from service on 31.5.1999. Though the fourth respondent school recommended for grant of four advance increments for obtaining M.A. and B.Ed. Degree, the third respondent did not grant four advance increments. Despite representation of the petitioner, the respondent authorities have not considered the same. According to the petitioner, non-sanctioning of four advance increments had considerably reduced his pensionary benefits.

3. Further case of the petitioner is that he had completed 30 years of service in the same post as Headmaster without any scope for promotion and therefore, he is entitled to get bonus

increment as per G.O.Ms.No.562, dated 28.9.1998. Though, initially, bonus increment was granted to the petitioner from 1.9.1998, the same was cancelled by the third respondent on 31.3.1999 and the amounts paid thereunder was also deducted from the salary of the petitioner. Challenging the same, the petitioner has filed the present writ petition.

4. Resisting the writ petition, the third respondent filed counter stating that the petitioner has not stagnated in the post of Headmaster for 30 years. It is stated that since there was no Government Order for the sanction of incentive increment for the higher qualification acquired through Open University Scheme then, the petitioner was not sanctioned the incentive increment for the accrual of Post Graduate degree. The Government had issued G.O.Ms.No.307, School Education Department, dated 15.12.2000 that incentive increment may be sanctioned for acquiring higher qualification through Open University with effect from 15.12.2000 only. As the petitioner was retired from service before the effect of the said Government Order, he was not sanctioned incentive increment then. Thereafter, the Government had issued orders in G.O.Ms.No.29, dated 17.2.2006 for sanction of incentive increments for higher qualification acquired through Open University with effect from the date of passing of such examination and the Rules have been suitable amended.

5. It is stated in the counter that no claim was made by the respondents 4 and 6 to that effect so far. As and when, the claim is preferred by the respondents 4 and 6, the third respondent is ready to sanction and pay the arrears for the incentive increment to the petitioner. It is also stated that since the petitioner was not served in the same post for 30 years, the third respondent has passed the impugned order cancelling the bonus increment already granted and therefore, there is no wrong in passing the impugned order.

6. I heard M/s.Selvi George, learned counsel for the petitioner, Mr.Dig Vijaya Pandian, learned Additional Government Pleader appearing for the respondents 1 to 3, Mr.Fr.Xavier Arul Raj, learned Senior Counsel for M/s.Arul Mary, learned counsel appearing for the respondents 4 and 6 and Mr.V.Vijayashankar, learned counsel appearing for the 5th respondent and also perused the materials available on record.

7. The points arise for consideration in this writ petition are:

- (1) Whether the petitioner is entitled to get four advance increments for obtaining M.A. and B.Ed. degree as prayed for?

(2) Whether the petitioner is entitled to get bonus increment for having completed 30 years of service in the same post as Headmaster?

8. It is seen that the petitioner was appointed as Head Master in the fourth respondent school on 1.7.1965 and retired from service on 31.5.1999. It is also seen that the petitioner obtained M.A. degree and B.Ed. degree through Open University Scheme from Annamalai University.

9. In his counter, the third respondent stated that no claim was made by the respondents 4 and 6 for sanction of incentive increments for higher qualification. As and when the claim is preferred by the respondents 4 and 6, the third respondent is ready to sanction and pay the arrears for the incentive increment.

10. The learned counsel for the petitioner submitted that despite the respondents 4 and 6 requested the Additional Elementary Educational Officer, Tirunavalur Range to sanction four incentive increments to the petitioner for passing M.A. and B.Ed. degree, he has not sanctioned the same. Therefore, the third respondent may be directed to sanction four increments for passing higher qualification.

11. In view of the stand taken by the third respondent in his counter that they are ready to sanction incentive increments to the petitioner for having obtained higher qualification and pay arrears, I am of the view that the petitioner is entitled to get four incentive increments for having obtained higher qualification.

12. Insofar as entitlement of bonus increment for having completed 30 years of service as Head Master is concerned, the learned counsel for the petitioner submitted that earlier the petitioner was granted bonus increment from 1.9.1998 and thereafter, without notice, by the impugned proceedings dated 31.3.1999, the third respondent cancelled the same and the amount paid thereunder was also deducted from the salary of the petitioner.

13. The learned Additional Government Pleader submitted that as per the entries made in the Service Register of the petitioner, it is seen that he had continued as Secondary Grade Teacher for more than 20 years and he was awarded Selection Grade and Special Grade in the cadre of Secondary Grade Teacher w.e.f. 2.6.1975 and 1.7.1985 respectively. The Service Register entries also show that the petitioner had served as Elementary School Headmaster from 1.6.1988 only and had retired from service on 31.5.1999. Therefore, the petitioner has not

stagnated 30 years of service in the post of Elementary School Headmaster as stated by the petitioner. In order to prove that the petitioner was not stagnated in the same post for 30 years, the respondent authorities have not produced any record.

14. On the other hand, the learned counsel for the petitioner submitted that the petitioner had completed more than 30 years of service in the same post as Head Master without any scope for promotion and therefore, he is entitled to get bonus increment as per G.O.Ms.No.562, dated 28.9.1998.

15. To prove that the petitioner has served in the same post for more than 30 years, he had produced the letter dated 1.11.2008 addressed by the fourth respondent school to the Additional Elementary Educational Officer, wherein it has been stated as under:

"This is to certify that Mr.P.Arokiasamy was appointed as the Head Master of R.C. Primary School, Nalmikkal on 30.06.66 as per our office record. From 30.06.66 till his retirement he had been serving as Head Master in various schools of our management."

Thus, as per the said letter, the petitioner had worked from the date of appointment till the date of retirement in the same post.

16. In G.O.Ms.No.562, Finance (Pay-Cell) Department, dated 28.09.1998, provides as under:

"Representations have been made by several employees associations before the One Man Commission constituted in the Government Order second read above for opening an incentive viz., Super Grade or Senior Grade for those employees who have completed 30 years of service in the same post above the existing Special Grade. The one Man Commission among other things has recommended that employees stagnating in a post beyond 30 years or employees stagnating in Special Grade beyond 10 years be granted with one bonus increment with a view to keep the employees vibrant and active during the fag end of their service."

2. The Government after careful examination of the recommendations of the One Man Commission has decided to accept it. Accordingly Government directs that employees stagnating in a post beyond 30 years i.e., employees stagnating in the Special Grade beyond 10 years be granted with one bonus increment as an incentive.

3. These orders shall take effect from 1st September 1998."

The above Government Order makes it very clear that an employee is entitled to bonus increment, when he stagnates in a post beyond 30 years or employee stagnating in Special Grade beyond 10 years.

17. In the case on hand, the respondent authorities admit that the petitioner was appointed on 1.7.1965, Selection Grade was granted on 2.6.1975, Special Grade was granted on 1.7.1985 and retired on 31.5.1999.

18. The letter dated 1.11.2007 addressed by the Manager of R.C.Primary and Middle School to the Additional Elementary Educational Officer, Tiruvannainallur Range, strengthen the case of the petitioner that he had appointed been as Head Master on 30.6.1966 and till his retirement he served as Head Master in various schools of fourth respondent Management. Thus, the petitioner has stagnated for 30 years in the same post. Therefore, the petitioner is entitled to get bonus increment as per G.O.Ms.No.562, dated 28.9.1998. Without affording an opportunity, the third respondent has cancelled the benefit earlier given to the petitioner, which is violative of Article 226 of the Constitution of India.

19. In the light of the above discussions, I am of the view that the impugned order is contrary and in violation of the Government Order and moreover, the very purpose of the Government Order is to grant certain benefits for persons stagnating in a post beyond thirty years. Hence the impugned order is liable to be set-aside.

20. In the result:

(a) this writ petition is allowed by setting aside the impugned order in Na.Ka.No.599 Aa1/99 dated 31.03.1999 passed by the 3rd respondent.

(b) the respondents 1 to 3 are directed to re-fix the petitioner's salary for pensionary benefits by sanctioning two incentive increments (four advance increments) for passing M.A., and B.Ed. degree from 25.09.1996 and also the bonus increment for rendering more than 30 years of service in the same post of Head Master and pay all arrears of monetary benefits.

(c) the said exercise shall be done within a

period of eight weeks from the date of receipt of
a copy of this order. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vs

To

- 1.The Director of Elementary Education,
College Road,
Chennai - 600 006.
- 2.The District Elementary Educational Officer,
Villupuram,
Villupuram District.
- 3.The Assistant Elementary Educational Officer,
Thirunavalur,
Villupuram District.
- 4.The Accountant General of Tamil Nadu,
Chennai - 600 018.

+1cc to Ms.Selvi George, Advocate, S.R.No.90279

W.P.No.25000 of 2003

CS/06/07/18

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