

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2018

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.9394 of 2014

K.Jeyaraman

..Petitioner

Vs.

1. The Director,
Elementary School Education Department,
College Road,
Chennai - 600 006.

2. The Additional Assistant Elementary
Educational Officer,
Kumbakkonam.

..Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st and 2nd respondent to grant incentive increment to the Petitioner for his M.A.qualification from the year 1997 onwards by implementing the Tamil Nadu Administrative Tribunal order dated 23.1.2004 passed in O.A.Nos.6530/1996, 324 to 329, 261, 5067 to 5069 of 1998 & 520 of 2000 and consequentially Re-fix the pension with all service benefits to the petitioner in accordance with law within a stipulated period of time.

For Petitioner : Mr.N.S.K.Sivaraj

For Respondents : Mr.K.Karthikeyan, GA for R1 & R2

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents 1 and 2, to grant incentive increment to the Petitioner for his M.A.qualification from the year 1997 onwards by implementing the Tamil Nadu Administrative Tribunal order dated 23.1.2004 passed in O.A.Nos.6530/1996, 324 to 329, 261, 5067 to 5069 of 1998 & 520 of 2000 and consequentially Re-fix the pension with all service benefits to the petitioner.

2.The petitioner joined as Secondary Grade Assistant on contract basis in the year 1987 and his services were regularized in the said post of Secondary Grade Teacher with effect from the year 1988. The petitioner was sanctioned with

two incentive increments for possessing the Higher Educational Qualification of M.A., and B.Ed.,. During the year 1997, an Audit objection was raised in respect of grant of incentive increment to the writ petitioner and the 2nd respondent cancelled the incentive increment granted to the writ petitioner and ordered for recovery. The petitioner approached the Tamil Nadu Administrative Tribunal in the year 1998 and a final order was passed by the Tribunal in the year 2004, with a direction to grant incentive increment for possessing higher qualification of M.A., degree. The said order passed by the Tribunal during the year 2004 became final. However, the representations submitted by the writ petitioner has not considered so far, for the revival of the increment granted in the year 1997. The petitioner now come forward with the present writ petition, stating that the order passed by the Tribunal is to be implemented by restoring the incentive increment granted to him in the year 1997.

3.This Court is of an opinion that the incentive increment granted to the writ petitioner was withheld by the 2nd respondent in proceedings dated 26.11.1997. The petitioner filed application before the Tamil Nadu State Administrative Tribunal and obtained an order of interest of recovery on 04.03.1998. A final order was passed by the Tribunal on 23.01.2004, holding that "one incentive advance for having B.Ed., they are not eligible and therefore, recovery shall be made only in respect of one advance increment granted to the writ petitioners. For the grant of incentive advance for M.A., and M.Ed., no recovery shall be made because they are eligible. As per the G.O., above referred to is any increment as incentive advance on the strength of B.Ed., degree. Therefore, the applicant shall be considered to have become eligible only to grant of two advance increments i.e., one for M.A., and another for M.Ed., degree. The applications are ordered in these terms."

4.Though the Tribunal passed the final orders on 23.01.2004, the respondents have not initiated any action except by stating that he had submitted representation to the authorities. However, the present writ petition has been filed on 25th March 2014, after a lapse of about ten years from the date of passing of the order passed by the Tamil Nadu Administrative Tribunal. This apart, the writ petitioner had already reached the age of superannuation and retired from service.

5.Thus, the implementation of the Tribunal order now after a lapse of fourteen years cannot be granted at all. This apart, to implement the order of the Tribunal, which was passed in the year 2004, no writ petition can be entertained in the year 2014 for a direction to implement the order passed by the Tribunal in

the year 2004. Thus, there is an enormous delay even on the part of the writ petitioner in approaching this Court and further, the orders passed by the Tribunal in the year 2004 was not pursued by the writ petitioner for more than ten years.

6.This being the factum of the case, the petitioner is not entitled to claim the relief as such sought for in the present writ petition and accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CS-VIII)

// True Copy//

Sub Assistant Registrar

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To

1. The Director,
Elementary School Education Department,
College Road,
Chennai - 600 006.
2. The Additional Assistant Elementary
Educational Officer,
Kumbakkonam.

RSI (CO)
RMP (20/09/2018)

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