

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 20.12.2018

CORAM :

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition No.25411 of 2008
and
M.P.No.1 of 2008

N.Kannuchamy

.. Petitioner

Vs

1. Chief Educational Officer
Coimbatore
Coimbatore District.

2. Headmaster
Nanjappa Municipal Boys
Higher Secondary School
Kadarpettai
Tiruppur - 641 601
Coimbatore District.

.. Respondents

Writ Petition has been filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the second respondent in his proceedings O.Mu.194/A/2007/C1 dated 28.11.2007 and quash the same and direct the respondents to sanction one set of incentive increment to the petitioner for M.A. qualification with all consequential benefits.

For Petitioner : Mr.C.Vediappan
For Mr.S.Mani

For Respondent-1 : Mr.K.Karthikeyan
Government Advocate

Respondent - 2 : Served (No appearance)

ORDER

This Writ petition is filed praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the second respondent in his proceedings

O.Mu.194/A/2007/C1 dated 28.11.2007 and quash the same and direct the respondents to sanction one set of incentive increment to the petitioner for M.A. qualification with all consequential benefits.

2. The case of the petitioner is as follows:-

The petitioner joined as Secondary Grade Teacher on 08.12.1978 and posted at Panchayat Union elementary School, Ayyangudipatti, Pudukkottai District and thereafter, at his request, he was transferred as Secondary Grade Teacher to Municipal Elementary School, Tiruppur on 17.08.1994. In the mean while, he acquired B.Lit in 1990 and B.Ed., in 1994, for which he was sanctioned one set of incentive increments. Thereafter, he acquired M.Ed., qualification in 1996, for which also he was sanctioned one set of incentive increment. Thereafter, he has been promoted as Tamil Pandit on 29.03.1996 and posted at Government Municipal Higher Secondary School, Tiruppur. Thereafter he acquired M.A. Qualification in 1999 and made representations dated 14.06.2000 and 27.11.2007 to the second respondent requesting him to sanction one set of incentive increment for M.A. qualification. However, the second respondent by his orders dated 14.06.2000 and 28.11.2007 respectively, rejected the same on the ground that as per G.O.Ms.No.1023, Education, Science & Technology Department dated 09.12.1993, third set of incentive increment is not eligible, since the Government imposed ceiling of only two sets of incentive increments. Hence, this Writ Petition.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

4. The learned counsel for the petitioner would submit that while the petitioner has been working as Secondary Grade Teacher, he acquired B.Ed., and M.Ed., Degree, for which two sets of incentive increments were sanctioned and after becoming Tamil Pandit, he is entitled for incentive increment for M.A., because M.A. is the higher qualification for the post of School Assistant (Tamil) and hence, he prayed for allowing the Writ Petition.

5. The learned Government Advocate appearing for the first respondent would contend that in view of G.O.Ms.No.1024 dated 09.12.1993, which restricts the maximum number of incentive increments to two and in view of the fact that the petitioner had already been granted two incentive increments, which is equivalent to four advance increments, the petitioner will not be entitled to any further incentive increment during the period of his service. The learned Government Advocate would also contend that the Hon'ble Division Bench of this Court in W.A.No.1664 of 2016 dated 29.06.2018 upheld the said position and allowed the Writ Appeal thereby, dismissed the Writ Petition seeking payment

of third incentive.

6. I have considered the said submissions made by the learned counsel on either side and perused the materials available on record.

7. On perusal of G.O.Ms.No.1024 dated 09.12.1993, it could be seen that the maximum number of advance increments, which a Teacher, can get under the Scheme of incentive increments shall be four in his entire service, (one incentive increment is equivalent to two advance increments). The said position was clarified by the Government in G.O.Ms.285, School Education Department dated 28.11.2007, which reads as follows:

"As per the policy decision of the Government, two incentives (four increments) only may be granted to the teachers for the entire period of their service and hence, accepting the above recommendation of the Director of School Education, for the Headmasters who got only one incentive for M.Ed. qualification during his service as Post Graduate Teachers and promoted to the Headmaster Post and after the promotion as Headmasters, on acquiring M.Phil/Ph.D/ PGDTE qualification allowing a second incentive to such Headmasters from the date of the issue of this G.O. is ordered."

8. From the above Government Orders, it is clear that the teachers/postgraduate teachers/headmasters are eligible to get two incentive increments (four increments) only, in their entire service.

9. On perusal of the judgment dated 29.06.2018 made in W.A.No.1664 of 2016, it could be seen that the Hon'ble Division Bench after discussing the above Government Orders and while allowing the Writ Appeal thereby dismissing the Writ Petition filed by the teacher, has observed that even though the Government Orders as well as the Orders of this Court granting third set of incentive increments to certain teachers have been passed, those Government orders have been passed in particular cases, considering the peculiar circumstances of the case and the fact that the higher qualification in those cases are obtained, before 09.12.1993, i.e. the date on which the first G.O. i.e. G.O.Ms.No.1023 was passed restricting the number of incentive increments to a maximum of two, during the service of the teacher and therefore, those Government Orders which have been passed taking note of certain special circumstances could not be taken as precedents to enable the respondent in the Writ Appeal, to claim an incentive increment, which he would not be entitled to otherwise.

10. In view of the above discussions and in view of the G.O.Ms.No.1024 dated 09.12.1993 and G.O.Ms.285, School Education Department dated 28.11.2007 and also the judgment dated 29.06.2018 made in W.A.No.1664 of 2016, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

mra

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Chief Educational Officer
Coimbatore
Coimbatore District.
2. The Headmaster
Nanjappa Municipal Boys
Higher Secondary School
Kadarpettai
Tiruppur - 641 601
Coimbatore District.

+1cc to M/s.C.S.Associates, Advocates, S.R.No.89298

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PM(CO)
kak(18/02/2019)

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