

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.5797 of 2018

C.Sekar

.. Petitioner

-vs-

1. The Director of Elementary Education
Office of Directorate of School Education
D.P.I., College Road
Chennai 600 006
 2. Distrit Elementary Educational Officer
Vellore
Vellore District
 3. The Additional Assistant Elementary Educational Officer
Muppadhuvetti
Arcot Union
Vellore District 632 503
- .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to grant a notional increment to the petitioner who retires on superannuation on the preceding day of annual increment due date on 01.07.2013 in light of Final order in W.P.No.12322 of 2017 accordingly revise the pension and other benefits within a specified period.

For Petitioner :: Mr.R.Sreedharan

For Respondents :: Mrs.P.Rajalakshmi
Additional Government Pleader

ORDER

The petitioner is a retired Middle School Headmaster with effect from 30.6.2013 and drawing pension from the Sub Treasury, Walaja East. However, he has got a grievance that his actual annual increment which had fallen due on the first day of July of every year, has not been paid for his full year of service from 1.7.2012 to 30.6.2013. Therefore, he has given a representation on 26.8.2017 requesting the respondents to give

one notional increment for completing one year of service from 1.7.2012 to 30.6.2013. But the same has not been considered. A similar issue was already answered by this Court vide order dated 5.7.2017 passed in W.P.(MD) No.12322 of 2017 (S.Usha v. The Secretary to Government, Cooperative, Food & Consumer Protection Department and others), wherein it has been held as follows:-

"9. Admittedly the petitioner after serving as Co-operative Sub Registrar, Madurai, retired from service, on reaching the age of superannuation on 31.03.2013. When she was not paid with the increment for having served from 01.04.2012 till 31.03.2013, as per F.R.26(a) Appendix (ix), which is extracted as above, the increment for the said year deserved to be sanctioned. A perusal of F.R.26(a) Appendix (ix) shows that the increment of a Government Servant which fell due in a quarter to be sanctioned on the first day of that quarter even though he retires from service. Therefore when F.R.26(a) Appendix (ix) candidly makes it clear that the increment of the Government Servant which falls due in a quarter to be sanctioned on the first day of the quarter even though retires from the service, in the instant case, the petitioner, having served continuously from 01.04.2012 to till 31.03.2013, on attaining the age of superannuation on 31.03.2013, retired from service, therefore she will not be able to work on 01.04.2013. hence, the ground taken by the respondents that since she is not in service on 01.04.2013, not entitled to the increment, is wholly running contrary to F.R.26(a) Appendix (ix).

10. In the similar circumstances, I have also held in W.P.(MD) No.10630 of 2016, dated 15.07.2016 that the annual increment for the service rendered from 01.04.2013 to 31.03.2014 which fell due from 01.04.2014 should be granted.

11. In view of the above, the Writ Petition is allowed and the impugned order is set aside. No costs. It is needless to mention that the first respondent is hereby directed to sanction the last increment which fell due on 01.04.2013 within a period of six weeks from the date of receipt of a copy of this order."

If a direction is given to the respondents to consider the case of the petitioner in the light of the above order, no prejudice would be caused, it is pleaded.

2. The learned Additional Government Pleader for the respondents, taking note of the said genuine request, sought four weeks time to consider the representation of the petitioner.

3. Placing on record her request, the third respondent is hereby directed to consider the case of the petitioner, since the issue was already answered in my earlier order dated 5.7.2017 in W.P.(MD) No.12322 of 2017 as extracted above, and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Director of Elementary Education
Office of Directorate of School Education
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Chennai 600 006
2. The District Elementary Educational Officer
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3. The Additional Assistant Elementary Educational Officer
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Vellore District 632 503

+1cc to Mr.R.SREEDHARTAN, Advocate, S.R.No. 19941
+1cc to the Government Pleader, S.R.No. 20489

W.P.No.5797 of 2018

TR(28/03/2018)