

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.08.2018

Coram

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No 10928 of 2008

N. Thilagavathi

....Petitioner

Vs.

1. The Assistant Elementary Educational

Officer, Mallasamuthiram, Namakkal District.

2. The Inspector of Departmental Audit,

Namakkal, Namakkal District. ... Respondents

Prayer: This writ petition has been filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records relating to the impugned order of the second respondent in Na.Ka.No.1132 /A1/07 dated 15.12.2007 communicated to the petitioner by the first respondent in O.Mu.No.193/08/A1 dated 27.02.2008 and quash the same and direct the respondents to restore the incentive increments already granted to the petitioner for possession of M.A. and B.Ed., qualification and grant her all attendant benefits.

For petitioner: Mr. P. Rajendran

For Respondents: Mr. K. Karthikeyan

Government Advocate

सत्यमेव जयते

O R D E R

The petitioner prays to issue a writ of Certiorarified Mandamus to call for the records relating to the impugned order of the second respondent in Na.Ka.No.1132/A1/07 dated 15.12.2007 communicated to the petitioner by the first respondent in O.Mu.No.193/08/A1 dated 27.02.2008 and quash the same and direct the respondents to restore the incentive increments already granted to the petitioner for possession of M.A. and B.Ed., qualification and grant her all attendant benefits.

2. The case of the petitioner is that she was initially appointed as Secondary Grade Teacher on 01.06.1998 and at the time of filing this petition she was working as a Head Mistress in Panchayat Union Middle School, East Munjanoor, Mallasamuthiram Block, Namakkal District. At the time of appointment she was in possession of B.S.C and B.E.D., qualification and she was granted incentive increments by proceedings of the Assistant Elementary Educational Officer, Mallasamuthiram in Na.Ka.No.31/A1/91 dated 04.02.1991. However, the said incentive increment was cancelled by the proceedings of the Assistant Elementary Education Officer, Mallasamuthiram in Na.Ka.No.42/A1/91 dated 23.10.1991. However, the petitioner had completed M.A. Examination in May 2002 and she was not awarded any increment for acquiring the said higher qualification. The petitioner would further contend that one Tmt. Thangammal, who was similarly placed person as that of the petitioner has been paid the incentive increment, which was later denied, but subsequently, the same was restored.

3. The learned counsel for the petitioner would contend that, in the case of the petitioner, the incentive increment was denied due to the reasons best known to the respondents. In other words, in respect of the teachers, who were joined along with the petitioner, different yardstick was followed by the respondents. Therefore, the petitioner submitted a representation to the first respondent on 28.08.2007 requesting to consider her case and restore the incentive increment as done in the case of the said Thangammal and the same was rejected. Therefore, the petitioner has approached this Court by way of filing this Writ petition.

4. The learned Government Advocate appearing for the respondents would contend that the petitioner was initially appointed as Secondary Grade Teacher on contract basis in the sanctioned Secondary Grade vacancy with effect from 12.11.1987 at Panchayat Union Elementary School, Devaradiar Kuppan to Mallasamudram Panchayat Union in Namakkal District and joined in Panchayat Union Middle School, Thuthipalayam. At the time of filing this writ petition she was working as Middle School Headmistress in Paruthipalli Panchayat Union school in the same union. At the time of appointment she possessed B.S.C., degree with B.Ed., as General and professional qualifications. The Government in G.O.M.S.No. 510, Education Department dated, 10.05.1989 ordered to regularise the services of the teachers appointed on contract basis with B.E.D., and Tamil Pandit

qualifications in the Secondary Grade vacancies as Secondary Grade Teachers with effect from 01.06.1988 imposing certain conditions and among others these teachers are not entitled to claim incentive increments by virtue of their possessing higher qualification. The petitioner also agreed the conditions and executed agreement with the Government. The 1st respondent inadvertently without knowing the conditions imposed by the Government, sanctioned two incentive increments to the petitioner.

5. Heard both sides and perused the materials available on record.

6. On a perusal of G.O.Ms.No.510, Education(MI) Department, dated 10.05.1989, it could be seen that the said G.O has been issued to regularise the service of the BT Assistants and Tamil Pandits, who were appointed in the place of Secondary Grade Teachers by relaxing the age, and the relevant portion pertaining to the said case in paras 4 to 6 of G.O.No.510 are extracted here under:

"4. The Government in relaxation of the condition (ii) in paragraph 2 of G.O. Ms.No.539, Education, dated 21.04.1986, directed that the services of all the serving secondary grade teachers with the B.T. and Post-Graduate qualifications, Tamil Pandit qualifications and secondary grade qualifications, who were appointed on contract basis and who had renewed their contract appointment, during the academic year 1988-89 be regularised with effect from their date of joining duty in the academic year 1988-89 in the category of Secondary Grade Teachers provided they satisfy the age rule prescribed in the Special Rule. The Director of School Education is requested to take suitable action to issue orders appointing those candidates on regular basis as per these orders.

5. The Government also directed that the services of the teachers, who do not satisfy the rule will be regularised only after the rule relating to the qualification with reference to age is relaxed by Government. The Director of School Education is requested to send suitable proposals to Government in respect of these candidates immediately.

6. The Government also direct that B.T. Assistants or Tamil Pandits appointed to the Secondary Grade posts on contract basis and whose services are ordered to be regularised in paras 4 and 5 above, shall be eligible to draw the scale of pay as applicable to the post of Secondary Grade Teachers and that they are not eligible to draw any incentive increments of higher scale of pay by virtue of their possessing higher qualification, etc.,

7. From the perusal of G.O.M.S.No.510(cited supra), it is clear that the B.T. Assistants or Tamil Pandits appointed to the Secondary Grade posts on contract basis are not eligible to draw any incentive increments or higher scale of pay by virtue of their possessing higher qualification etc., Moreover, except the averments in the writ petition, no material has been produced before this Court to show that Thangammal, who was similarly placed, as that of the petitioner has received incentive increment.

8. Accordingly this writ petition is dismissed. No costs.

Sd/--
Assistant Registrar(CS)
//True Copy//
Sub Assistant Registrar

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To.

1. The Assistant Elementary Educational

Officer, Mallasamuthiram, Namakkal District.

2. The Inspector of Departmental Audit,
Namakkal, Namakkal District.

+1 CC TO GOVERNMENT PLEADER SR.NO. 53252

W.P. No 10928 of 2008

A.SK(13/03/2019)