

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2018

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.22404 of 2008

and

M.P.No.1 of 2008

K.Jothilingam

... Petitioner

Vs.

1. Director of Elementary Education,
Chennai - 6.

2. District Elementary Educational Officer,
Villupuram District,
Villupuram.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 2nd respondent in his proceedings O.Mu.No.7040/A1/006 dated 09.05.2007 and quash the same, and direct the respondents to sanction one set of incentive increment to the petitioner for M.Ed. qualification, with all consequential benefits.

For Petitioner : Mr.T.Sellapandian

For Respondents : Mrs.Thangavadhana Balakrishnan
Additional Government Pleader
For Mr.K.Karthikeyan
Government Advocate (Edn)

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O R D E R

This Writ Petition has been filed to call for the records pertaining to the order passed by the 2nd respondent in his proceedings O.Mu.No.7040/A1/006 dated 09.05.2007 and to quash the same, and to direct the respondents to sanction one set of incentive increment to the petitioner for M.Ed. qualification, with all consequential benefits.

2. The case of the petitioner is that he was appointed as Higher Grade Teacher on 08.07.1971 and promoted as Secondary Grade Teacher from 07.02.1973. He was promoted as Headmaster of Elementary School on 07.07.1999 and then, Headmaster of Middle School on 21.03.2005. Thereafter, he was further promoted as Assistant Elementary Educational Officer on 15.11.2005. While the petitioner had been working as Assistant Elementary Educational Officer, he was transferred and posted as B.T. Grade Headmaster of Middle School on 15.06.2007. The petitioner reached superannuation on 31.07.2007, but, he retired after extension of service on 31.05.2008 as Headmaster of Middle School.

3. The petitioner would contend that during the above service, he acquired M.A. degree in November 1984, B.Ed in January 1985 and M.Ed. in 1987. The Government introduced incentive increment scheme with laudable object of encouraging the teachers to acquire more knowledge, which will be in turn useful to the students. As per the said scheme, a teacher who possesses higher qualification than that of the qualification required for the post, is entitled for one set of incentive increment. As far as the petitioner is concerned, while he had been working as Secondary Grade Teacher, he acquired M.A. and B.Ed. degrees, hence, he was sanctioned two sets of incentive increments. After he becoming B.T. Grade Headmaster of Middle School, i.e. on 21.03.2005, he was entitled to get incentive increment for M.Ed., degree, because, the minimum required qualification for the post of B.T. Grade Headmaster of Middle School was Degree plus B.Ed. Since the petitioner had acquired M.Ed., degree, he applied for sanction of one set of incentive increment, but, it was rejected by the 2nd respondent, by his order dated 09.05.2007 referring to the Government Order in G.O.Ms.No.1023, Education Department, dated 09.12.1993, in which, incentive increment was available only for 2 higher qualification, and since the petitioner had already availed the same for M.A. and B.Ed. degrees, the incentive increment for M.Ed. degree was not considered by the respondent. Hence, the petitioner, challenging the order dated 09.05.2007, has filed this Writ Petition to quash the same, and to direct the respondents to sanction one set of incentive increment to him for M.Ed. qualification, with all consequential benefits.

4. Denying the above allegations of the petitioner, the 2nd respondent has filed a counter affidavit, wherein, it has been contended that the petitioner herein, was originally appointed as a Higher Grade Teacher on 08.07.1971 in the Panchayat Union Elementary School, Agaram of Kilpennathur Union, Thiruvannamalai District. Then, he was promoted as Secondary Grade Teacher, Elementary School Headmaster and Middle School Headmaster on 01.06.1974, 07.07.1999 and 21.03.2005 respectively in the

Panchayat Union Schools of the same Union. Thereafter, he was posted as Assistant Elementary Educational Officer, Kanthili on 15.11.2005 and Ulundurpet on 01.08.2006. Then, he was further posted as Middle School Headmaster on 15.06.2007 to the Panchayat Union Middle School, Kolathur of Kilpennathur Union, and finally, retired from service on 31.07.2007. But, he served till 31.05.2008 on re-employment basis.

5. The learned counsel for the respondents would also contend that while the petitioner was working as Secondary Grade Teacher, he acquired the higher qualification of B.Lit (Tamil), M.A. B.Ed., and M.Ed., during May 1982, November 1984, January 1985 and December 1987 respectively. Hence, he was granted two sets of incentive increments for having acquired the qualification of B.Ed., and M.A. degrees, as per the Government Order, which was in force.

6. The learned counsel for the respondents would further contend that while the petitioner was working as Assistant Elementary Educational Officer, Ulundurpet, he claimed another set of incentive increment (i.e. for third time) for the acquirement of M.A.degree. Hence, his claimed was rejected by the District Elementary Educational Officer, Villupuram, the 2nd respondent herein, stating that there is no provision for the sanction of 3rd set of incentive increment for higher qualification with effect from 09.12.1993. Moreover, the learned counsel for the respondents would further contend that the scheme of sanction of incentive increments to teachers for the acquirement of higher qualification, was introduced by the Government, by G.O.Ms.No.42 Education, dated 10.01.1969. Subsequently, certain amendments were issued in G.O.Ms.No.1023 Education dated 09.12.1993 and G.O.Ms.No.1024 Education dated 09.12.1993 to the above said G.O.Ms.No.42 Education dated 10.01.1969 and the above said amendment was taken effect from 09.12.1993. The learned counsel for the respondents would also contend that the petitioner had acquired M.Ed degree while he was in service as Secondary Grade Teacher, but, not in service as B.T. Teacher or Headmaster. Moreover, the maximum number of incentive increments to be sanctioned to a teacher is limited to two sets only (i.e. two plus two = four increments) for the entire service with effect from 09.12.1993.

7. In addition to the above, the learned counsel for the respondents would contend that according to the aforesaid Government Orders, incentive increment for the acquirement of M.Ed., degree is eligible to a teacher if he/she acquired the M.Ed., degree while working in the post of B.T.Assistant. But, since the petitioner had acquired the M.Ed., degree while he was working in the post of Secondary Grade Teacher, he is not entitled for the third set of incentive increments for M.Ed.,

degree. Further, the petitioner was already got sanctioned the maximum number of two sets of incentive increments (i.e. two plus two = four advance increments). Hence, there is no way for sanction of additional incentive increments to the petitioner for M.Ed., degree, and sought for dismissal of the Writ Petition.

8. The learned counsel for the petitioner would submit that the matter is squarely covered by an order of this Court dated 29.01.2011 made in W.P.No.26667 of 2008 (A.Ela Murugu .. vs.. The Joint Director of School Education, Chennai and another) and he has produced the copy of the same before this Court. He further submits that the Government has issued the orders in G.O.Ms.Nos.1023 & 1024 Education, dated 09.12.1993, granting two advance increments for M.Ed., degree. As per the same, the teachers those who have obtained higher qualification before 09.12.1993, are entitled for getting the advance increments. Accordingly, the petitioner herein, is also eligible for getting two advance increments for M.Ed degree, since he had acquired the same while he was in the post of Secondary Grade Teacher i.e. before passing the Government Orders dated 09.12.1993.

9. On perusal of the records, it could be seen that the scheme of sanction of incentive increments to teachers for the acquirement of higher qualification was introduced by the Government, by G.O.Ms.No.42 Education, dated 10.01.1969, which reads as follows:-

"G.O.Ms.No.42 Education, dated 10.01.1969

(i) A Secondary Grade who after passing B.T. or B.Ed., degree examination qualifies for M.A. or M.Sc., or M.Ed., degree, but working in the secondary grade post may be given advance increments for second time ie., two advance increments after passing B.T. or B.Ed., degree and another two after passing M.A. or M.Ed., degree. B.T. Teacher after passing M.A. or M.Sc., qualifies for M.Ed., degree examination, but working in B.T or Headmasters post may be given advance increments for second time ie., two advance increments after passing M.Ed., degree. "

10. Subsequently, certain amendments were issued in G.O.Ms.No.1023 Education dated 09.12.1993 and G.O.Ms.No.1024 Education dated 09.12.1993, to the above said G.O.Ms.No.42 Education dated 10.01.1969. The relevant portions of the Government orders governing the scheme of incentive increments for higher qualification is extracted hereunder:-

"G.O.Ms.No.1023 Education, dated 09.12.1993

(i) A Secondary Grade teacher is eligible for two advance increments for B.T/B.Ed., degree and two more advance increments for M.A./M.Sc.,/M.Ed., degree.

(ii) A B.T.Assistant is eligible for two advance increments for M.A/M.Sc., degree and further two advance increments for M.Ed., degree.

G.O.Ms.No.1024 Education, dated 09.12.1993

(i) A Secondary Grade teacher on acquiring B.T/B.Ed., gets two advance increments and on acquiring M.A/M.Sc.,/M.Ed., while working either in Secondary Grade or B.T./B.Ed., Assistant post will get another two advance increments.

(ii) A.B.T/B.Ed., Assistant gets two advance increments for M.A./M.Sc., and if acquired M.Ed., qualification will get another two advance increments while working in B.T. Assistant or Headmaster post.

(iii) The maximum number of advance increments which a teacher can get under the scheme of incentive increments under the Government order shall be four in his entire service.

(iv) These order shall take effect from the date of issue (i.e. 9.12.1993)."

11. From the perusal of records, it could be seen that the petitioner acquired M.A. degree in November 1984, B.Ed in January 1985 and M.Ed. in 1987 and later, the petitioner was promoted as Headmaster of Elementary School on 07.07.1999 and B.T.Grade Headmaster of Middle School on 21.03.2005. The petitioner acquired both M.A., and M.Ed., Degrees while he was in the post of Secondary Grade Teacher, which is not disputed by both parties. As per G.O.Ms.No.42 Education, dated 10.01.1969, a Secondary Grade Teacher is eligible for two advance increments after passing B.T. or B.Ed., degree and another two advance increments after passing M.A. or M.Ed., degree. According to G.O.Ms.No.42, second set of advance increments to be given either for passing M.A., or M.Ed., Degree. Hence, the petitioner was granted second set of two advance increments for acquiring M.A., degree.

12. On perusal of G.O.Ms.No.1023 and 1024 dated 09.12.1993, it could be seen that the maximum number of advance increments which a teacher (either a Secondary Grade Teacher or a B.T Teacher or B.Ed., Assistant etc.,) can get under the scheme of incentive increments under the Government orders shall

be four in his entire service i.e., two sets of incentive increments.

13. Now the petitioner's claim is that he is also eligible for getting third set of two advance increments for acquiring M.Ed degree, since he had acquired the same while he was in the post of Secondary Grade Teacher i.e. before passing the Government Orders in G.O.Ms.No.1023 and 1024 dated 09.12.1993, which restricts only two sets of advance increments for a teacher in his entire service.

14. Before passing these two amended Government Orders, G.O.Ms.No.42 Education, dated 10.01.1969 was in existence. According to G.O.Ms.No.42 Education, dated 10.01.1969, a B.T. Teacher after passing M.A. or M.Sc., qualifies for M.Ed., degree examination, but working in B.T Teacher or Headmasters post may be given advance increments for second time i.e., two advance increments after passing M.Ed., degree. As per G.O.Ms.No.42 Education, dated 10.01.1969, a B.T teacher is eligible for getting two advance increments for second time after passing M.Ed., degree, only if he is working in the post of B.T. Teacher or Headmaster. As per records, it could be seen that the petitioner was promoted as Elementary School Headmaster on 07.07.1999 and Middle School Headmaster on 21.03.2005 respectively i.e., the petitioner was promoted to the post of Headmaster only after the issuance of G.O.Ms.No.1023 and 1024 dated 09.12.1993. Hence, the petitioner is not eligible for getting third set of advance increments for passing M.Ed., degree, even though he passed the same before 09.12.1993. The order of this Court dated 29.01.2011 made in W.P.No.26667 of 2008 (A.Ela Murugu .vs.. The Joint Director of School Education, Chennai and another), cited by the learned counsel for the petitioner is not applicable to this case. Hence, this Writ Petition deserves to be dismissed.

15. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CCC)

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Sub Assistant Registrar

raja/mra

To

1. The Director of Elementary Education,
Chennai - 6.

2. The District Elementary Educational Officer,
Villupuram District,
Villupuram.

+1cc to Mr.P.Ganesan, Advocate SR.No.50922

W.P.No.22404 of 2008
and
M.P.No.1 of 2008

SSV(CO)
GMY(18/02/2019)



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