

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 19.06.2018	Delivered on 29.06.2018
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CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.1664 of 2016
and CMP Nos.20602 & 20603 of 2016

1. The Director of School Education,
DPI Campus, College Road,
Chennai 600 006.
 2. The Chief Educational Officer,
Tiruvannamalai District,
Tiruvannamalai.
 3. The Head Master,
Government High School,
Melathangal,
Thiruvannamalai District. Appellants
- versus
- V.Dhanapal Respondent

Appeal filed against the order passed by this Court dated 05.09.2014 passed in W.P.No.22860 of 2014.

Prayer in WP.No.22860/2014:- Petition filed under Article 226 of the Constitution of India for a writ of Certiorarified Mandamus to call for the records relating to the proceedings of the 3rd respondent in Na. Ka. No.30/2014 dated 16.6.2014 and quash the same and consequently direct the respondents to sanction the incentive increment for the petitioner from the date of acquiring M.Phil. Degree within a time frame to be fixed by this Honourable court.

For appellants : Mr.K.Karthikeyan
Government Advocate

For Respondent : No Appearance

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The appellants in this Appeal challenge the order of the learned Single Judge made in WP No.22860 of 2014 dated 05.09.2014, in and by which, the Writ Petition filed by the respondent seeking sanction of incentive increment for acquiring M.Phil Degree, was allowed by the learned Single Judge.

2. Though the respondent is represented by the counsel there is no representation for the past few hearings. The Writ Petition was filed by the respondent seeking incentive increment for acquiring additional qualification, viz. M.Phil, during the course of his employment.

3. The facts as set out in the Writ Petition are as follows:

The respondent was initially appointed as Secondary Grade Teacher on 12.12.1990. He obtained B.Ed qualification, during the year 2006, for which he was sanctioned with one incentive increment with effect from 06.01.2006. Subsequently, the respondent acquired a Post Graduate Degree in Tamil for which another incentive increment was granted on 31.05.2012. Subsequently, the appellant acquired M.Phil qualification in 2008. The respondent made an application seeking third incentive increment for acquiring M.Phil qualification. The said claim of the respondent was rejected by the 3rd respondent by its proceedings dated 16.06.2014 in Na.Ka.No.30/2014, on the ground that as per the prevailing Government Orders, a teacher is entitled to only two incentive increments, during his service for acquiring higher qualification. Since the respondent had obtained two incentive increments, one in the year 2006 for acquiring B.Ed. qualification and the other in the year 2012 for acquiring Post Graduate Degree in Tamil (M.A.Tamil), the respondent was not entitled to third set of incentive increment.

It is this rejection that was impugned in the Writ Petition.

4. We have heard Mr.M.K.Karthikeyan, learned Government Advocate appearing for the appellants.

5. Mr.K.Karthikeyan, learned Government Advocate 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 respondent had already been granted two incentive increments, which is equivalent to four advance increments, the respondent will not be entitled any further incentive increment during the period of his service. A copy of

the said G.O. dated 09.12.1993 has been produced before us, the relevant portion of the G.O. reads as follows:

"The maximum number of advance increments which a Teacher can get under the Scheme of incentive increments under this Government Order 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."

6. Of course, the respondent in his affidavit filed in support of the Writ Petition has referred to certain Government Orders as well as the Orders of this Court granting a third set of incentive increments to certain teachers. The said Government Orders have also been produced before us by the learned Government Advocate, 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. Therefore, we do not think that those Government Orders which have been passed taking note of certain special circumstances could be taken as precedents to enable the respondent to claim an incentive increment, which he would not be entitled to otherwise.

7. The policy decision of the Government has been consistent to the effect that the teachers who acquire higher qualifications can be granted two incentive increments equivalent to four advance increments, during the entire tenure of their service. There is no dispute regarding the fact that the respondent has been awarded two incentive increments for acquiring B.Ed. and M.A. qualifications. Therefore, he cannot,

as a matter of right, claim the third set of incentive increments for having obtained M.Phil qualification. We are therefore, unable to sustain the order of the learned Single Judge directing payment of third incentive increment to the respondent.

8. For the foregoing reasons, the Writ Appeal is allowed and the Writ Petition No.22860 of 2014 will stand dismissed. However in the circumstances without costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS IX)

//True copy//

Sub Assistant Registrar

jv

To

1. The Director of School Education,
DPI Campus, College Road,
Chennai 600 006.
2. The Chief Educational Officer,
Tiruvannamalai District,
Tiruvannamalai.
3. The Head Master,
Government High School,
Melathangal,
Thiruvannamalai District.

+1cc to Special Government Pleader SR.No.42359

SVN (CO)
GN(11/07/2018)

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