

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 22.11.2018

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

W.P. NO.30770 OF 2018

A.R.Raghavan

.. Petitioner

- Vs -

1. The Chief Engineer
Tamil Nadu Water Supply
& Drainage Board, Thanjavur.

2. The Managing Director
Tamil Nadu Water Supply
& Drainage Board
Kamarajar Salai, Chennai.

3. The Secretary to Government
Municipal Administration &
Water Supply Department
Fort St. George, Chennai - 9.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing the respondents to grant 2 advance increments to the petitioner for having acquired MBA Degree with all monetary benefits from the date of joining as ordered in W.P. No.18674/2011 dated 23.7.13 within a reasonable time.

For Petitioner : Mr. K.Venkataramani, SC for
Mr. M.Muthappan

For Respondents : Mr. A.N.Thambidurai, AGP

ORDER

The present petition has been filed by the petitioner for a direction to the respondents to grant two advance increments for having acquired MBA with all monetary benefits.

2. The petitioner obtained Masters Degree in MBA, from University recognised by the UGC on 20.6.2000. The Government, originally in G.O. Ms. No.825 825 P & AR Dept., dated 6.7.1977 ordered that the Government Servant working in the Departments,

where Management qualification could be utilised and who hold Post-Graduate degree in Business Administration from recognized institution would be entitled to draw two advance increments. However, later vide G.O. Ms. No.154, P & AR Dept., dated 26.4.2010, the Government issued orders stating that since possessing of MBA qualification is not beneficial to the Government, issued orders cancelling sanctioning of the advance increments to persons, who possessed MBA Degree from the date of the order.

3. Challenging the said G.O. Ms. No.154, P & AR Dept., dated 26.4.2010, W.P. No.18674/2011 was filed by one Subramani and this Court, vide order dated 23.7.2013, and held that the Government Order dated 26.10.2010 cannot take away the accrued right of the persons, who had acquired MBA Degree before 2009 and, therefore, the Government Order would operate only prospectively and cannot be applied retrospectively.

4. On the basis of the above writ petition, the petitioner submitted a representation dated 14.12.2017 to the respondents to consider his case for grant of two advance increments. Since, no order has been passed on the said representation, the present petition has been filed.

5. Mr. A.N.Thambidurai, learned Addl. Government Pleader accepts notice on behalf of the respondents and submits that this Court may direct the respondents to consider the representation in the light of the orders passed by this Court in W.P. No.18674/2011 dated 23.7.2013.

6. This Court, in W.P. No.18674/11, vide order dated 23.7.2013, in an issue of similar nature, passed the following order :-

"6. To lend support to his contention that G.O. Ms. No.154 P & AR Department dated 26.10.2010 is not applicable to the Petitioner's case, the Learned counsel for the Petitioner relies on the order of this Court dated 23.1.2013 in W.P. Nos.7170, 15887 of 2010 and 6397 of 2012, wherein in paragraphs 7 to 11, it is observed and held here under:-

"7. It is not in dispute that the Board granted two advance increments for acquiring MBA degree to some of the Assistant Engineers or the Board. The petitioners are also similarly placed persons. Hence, I am of the view that the petitioners are also entitled to two advance increments as given to others.

8. However, it is submitted by the respondents that G.O.Ms.No.154, Personnel and

Administrative Reforms (FR-I) Department, dated 26.10.2010, was passed cancelling G.O.Ms.No.825, Personnel and Administrative Reforms (FR-I) Department, dated 6.7.1977, that granted advance increments for acquiring MBA degree. Hence, the petitioners are not entitled to claim advance increment.

9. I am not inclined to agree with the submissions made by the learned counsel for the respondents, since all the petitioners acquired the MBA qualification before 2009 itself and the persons, who are similar like that of the petitioners, were granted two advance increments.

10. It is well settled that G.O.Ms.No.154, dated 26.10.2010 cannot take away the accrued right of the petitioners, who acquired MBA Degree before 2009 itself and therefore, the said GO would only operate prospectively.

11. For all above reasons, a direction is issued to the first respondent Board to grant two advance increments to the petitioners, from the date on which they acquired MBA qualification, with all monetary benefits. The first respondent is directed to pay the arrears within a period of six weeks from the date of receipt of a copy of this order.

In the above terms, the writ petitions are disposed of. No costs."

7. Following the order of this Court dated 23.1.2013 in W.P. Nos.7170, 15887 of 2010 and 6397 of 2012, wherein a direction has been issued to the first Respondent therein to grant two advance increments to the Petitioner therein from the date on which he acquired M.B.A. degree with all monetary benefits, this Court allows the present writ petition by issuing direction to respondents 1 and 2 to grant two advance increments to the Petitioner from the date viz. 5.1.2009, the date on which he acquired M.B.A. Qualification with all consequential monetary benefits. The first and second Respondents are directed to pay the monetary arrears to the Petitioner within a period of four weeks from the date of receipt of copy of this Order. Accordingly, the writ petition is allowed, leaving the parties to bear their own costs."

7. Following the ratio laid down above, this Court is of the view that it would be suffice to direct the respondents to pass

orders on the representation submitted by the petitioner within a particular time frame in the light of the observations made by this Court in W.P. No.18674/2011.

8. In the above circumstances, this writ petition is disposed of directing the respondents to pass orders on the representation submitted by the petitioner in the light of the observations made by this Court in W.P. No.18674/2011, within a period of eight weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

GLN
To

1. The Chief Engineer
Tamil Nadu Water Supply
& Drainage Board, Thanjavur.
2. The Managing Director
Tamil Nadu Water Supply
& Drainage Board
Kamarajar Salai, Chennai.
3. The Secretary to Government
Municipal Administration &
Water Supply Department
Fort St. George, Chennai - 9.

+1cc to Mr.M.Muthappan, Advocate, S.R.No.79975

+1cc to the Government Pleader, S.R.No.80494

W.P. NO. 30770 OF 2018

RGN(CO)
GSP(11/12/2018)

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