



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving Judgment 06.12.2017	Date of Pronouncing Judgment 12.02.2018
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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD).No.5296 of 2014
and
M.P(MD).No.1 of 2014

R.Kannan

... Petitioner

Vs.

1. The Secretary to Government,
School Education Department,
Omanthurar Government Estate,
Annasalai, Chennai - 600 002.
2. The Director of School Education,
College Road, Chennai - 600 006.
3. The Joint Director of School Education,
(Higher Secondary)
College Road, Chennai - 600 006.
4. The Joint Director,
(Vocational Education),
College Road, Chennai 600 006.
5. The Chief Educational Officer,
Madurai, Madurai District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned G.O.Ms.No.240, School Education (VE) Department, dated 18.08.2010 on the file of the first respondent and quash the same as illegal and consequently to direct the first respondent to provide the necessary incentives to the Petitioner for the additional qualification of B.Ed., with M.Sc., (Maths) as against B.Sc (Maths) with PGDCA P.G.D.C.A in Computer Science required for the post of Vocational Instructor in Computer Science with effect from 01.01.2006 within the time stipulated by this Court.



For Respondents : Mr.VR. Shanmuganathan
Special Government Pleader
For R1 to R5

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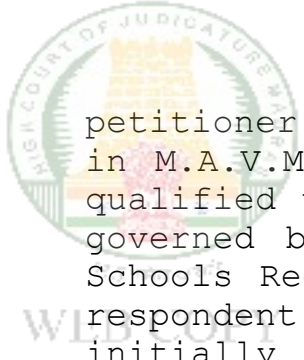
O R D E R

This Writ Petition has been filed to call for the records pertaining to the impugned G.O.Ms.No.240, School Education (VE) Department, dated 18.08.2010 on the file of the first respondent and quash the same as illegal and consequently to direct the first respondent to provide the necessary incentives to the Petitioner for the additional qualification of B.Ed., with M.Sc., (Maths) as against B.Sc (Maths) with PGDCA P.G.D.C.A in Computer Science required for the post of Vocational Instructor in Computer Science with effect from 01.01.2006 within the time stipulated.

2. The brief facts of the case is that the petitioner was working as a Vocational Instructor Grade I and have qualified with additional qualifications of B.Ed., with M.Sc., (Maths) as against B.Sc (Maths) with PGDCA P.G.D.C.A in Computer Science required for the post of Vocational Instructor in Computer Science. It is also submitted by the petitioner that he made a representation to provide necessary incentives on 02.03.2006 itself, but the same was not considered and hence, he was constrained to file a Writ petition in W.P.No.3845 of 2006, and this Court by an order dated 27.04.2006 directed the first respondent to consider the petitioner's representation dated 02.03.2006 within a period of eight weeks from the date of receipt of a copy of this order. However, the petitioner claims that despite being a direction, the same was not considered by the first respondent and due to illness and financial difficulties, he was not able to file a contempt petition by coming to this Court, which has also made the petitioner to sent an another representation to the respondents on 20.07.2009 seeking for providing necessary incentives for the additional qualification and the same is pending till date with the respondents.

3. The petitioner contended that in similar cases, this Court in W.P.No.14345 of 2007 and W.P.No.14332 of 2007 by its order, directed the respondents to consider such persons who had acquired additional qualification, and since the petitioner is also having improved his qualification, he claims that he is entitled for the same benefit based on the earlier order.

4. The first respondent filed a counter on behalf of the respondents 1 to 5 and would submit that the petitioner would not be eligible for any relief as prayed by him and stated that the

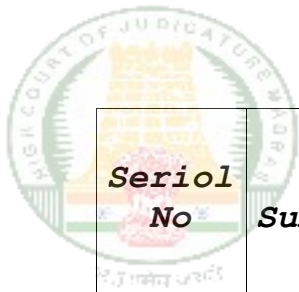


petitioner is presently working as a Vocational Instructor Grade I in M.A.V.M Higher Secondary School, Madurai-625 001, and he is qualified with B.Ed., with M.Sc., (Maths), and the said school is governed by the provisions of the Tamil Nadu Recognized Private Schools Regulation Act 1973 and Rules 1974 framed thereunder. The respondent further submitted that when the petitioner was initially appointed, his services were regularized not on the basis of B.Sc (Maths) but for the qualifications possessed by him in PGDCA (Post Graduate Diploma in Computer Application) which is the basic qualification for the post held by him i.e., Vocational Instructor in Computer with any degree from a regularized university in the state with one year post graduate in Diploma in Computer Application. The higher education prescribed for the 1st incentive is P.G.Degree related to Computer Science and for the second incentive is M.Phil (or) M.Ed., (or) Ph.D. The Additional qualification possessed by the petitioner i.e. M.Sc. in Mathematics which has no relevance with the Computer science and the degree with B.Sc., in Mathematics have not been prescribed for providing any incentives. Hence, the plea of the petitioner could not be accepted and had to be rejected.

5. On hearing the learned counsel for the petitioner and the learned counsel for the respondents, and on perusing the materials available on record, this Court finds that the issue in the present Writ petition is whether the petitioner having possessed with higher qualification than that of the qualification required and whether he is entitled for 2 incentives which has currently held in the batch of Writ petitions.

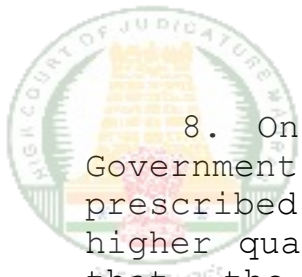
6. It is seen from the records that no doubt that the petitioner was appointed as Vocational Instructor Grade I in Computer Science. The basic requirement for such post as per the G.O.M.S.No.240 School Education Department dated 18.08.2010 which is being challenged by the petitioner in the present Writ petition. The Principal Secretary to Government in the above G.O has prescribed qualification and higher qualification entitled for incentives from the basic required qualification.

7. The Government has specified at (VII) Vocational Instructor for Computer Science, the following basic qualification for the vocational post in computer science and has also specified the higher qualification, in which, 2 incentives may be applied to the candidates concerned which is as follows:



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Serial No	Subject	Basic Qualification	Higher Qualification Prescribed	
			1 st Incentive Two Advance Increments	2 nd Incentive Two Advance Increments
1	Computer Science	1) BE Degree in Computer Science (or) Electronics and Communication (or) Electrical and Electronics Engineering. 2) B.Sc Computer Science (or) One year PGDCA 3) Any Degree from a recognised University in the state (or) a degree of equivalent standard with. i) One year post graduate Diploma course in Computer Application (Recognized university) ii) Diploma Course in system Analysis and Data processing offered by Annamalai University (or) equivalent. iii) Certificate on O level Examination conducted by department of Electronics (or) equivalent (or) iv) Certificate course in Computer Programming conducted by recognized colleges and Universities for a period not less than six months or equivalent. M.Sc (IT) M.Sc (Computer Science) M.Sc (Software Technology) M.Sc Computer Communication M.C.A.B.C.A and one year post graduate Diploma Course in Computer Application.	M.E (or) Related P.G.Degree P.G.Degree in related Computer Science subject from a recognized University in the State or equivalent M.Phil Degree in related Computer Science subject from a recognized University in the State or equivalent	M.Phil (or) M.Ed (or) P.hD M.Phil (or) M.Ed (or) P.hd P.hd



8. On perusal of the above qualification specified by the Government for the purpose prescribed qualification with prescribed basic educational qualification as well as prescribing higher qualification for entitlement of 2 incentives. It is clear that the basic qualification for the post of Vocational Instructors in Computer Science i.e. B.E degree in Computer Science or Electronics and Communication or Electrical and Electronics Engineering. Correspondingly, the higher qualification prescribed to such basic qualification to be entitled for incentives i.e. M.E or Related P.G Degree for the 1st incentives and M.phil or M.Ed or P.hd for the second incentives. In the same way B.Sc Computer Science or one year PGDCA from the recognized university in the state or equivalent will be entitled for the first incentives and the persons who are holding M.phil or M.Ed or P.hd are entitled for the second incentives.

9. On reading of the above said are prescribed qualification and the higher qualification entitling a person for getting incentives from the basic qualification prescribed. A person will be entitled for the incentives if they obtain higher educational qualification in the same field or related post graduate degrees, and in the same scenerio, the person ought to have acquired M.phil, M.Ed or P.hd in the same stream of subjects from the basic qualification prescribed under the Government order.

10. The present case on hand wherein the petitioner claims that he had completed B.Sc. Maths with PGDCA (Post Graduate Diploma in Computer Science Application) which is required qualification for the post of Vocational Instructor in Computer Science and he claims that he had acquired M.Sc., (Mathematics) and B.Ed qualification against the minimum required qualification, entitling the petitioner for incentives. On the other hand the basic required qualification is only B.E Degree in Computer Science or Electronics and Communication or Electrical and Electronics Engineering or B.Sc Computer Science or one year PGDCA or any degree from a recognized university in the state or equivalent standard with one year graduate in computer application from a recognized university.

11. The petitioner having acquired B.Sc and Post Graduate Diploma in Computer Application was recognized and appointed as Vocational Instructor for Computer Science as any degree in recognized university with one year PGDCA is also being the basic qualification among the qualification for appointment of Vocational Instructor, whereas the Government in G.O.M.S has specified the higher qualification entitling a person for incentives. The petitioner says M.E or related P.G. Degree in Computer Science. The qualification in entitlement of incentive refer only



to the basic Computer science degree. However, B.Sc Maths as basic qualification for the post of Vocational Instructor could only come under the category of any degree and not equated to B.Sc Computer Science or any degree relevant to B.Sc Computer Science.

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12. The Government is very cautious to prescribe incentives, only for the degrees which are specified as basic qualification. The post graduate degrees relating to the basic degrees specified as basic qualification, for the post of Vocational Instructor for incentives and the persons who are obtained various degrees in other filed are not entitled. It is seen that the petitioner having higher qualification in B.Sc and M.Sc degree in mathematics which is not one of the degree specified in the basic qualification as per the above said G.O.M.S and B.Sc (mathematics) had only to be taken into account as any other degree for the purposes of appointment as Vocational Instructor.

13. The petitioner relying upon the order passed in the batch of Writ petitions by this Honorable Court wherein in W.P.(MD). No.5787 of 2007 the learned Judge while referring to the order passed by the Honorable Supreme Court in the case of V.Gangaram Vs. The Regional Joint Director, has held that the teachers on improvement of their qualification are entitled to get advance increments other than the prescribed qualifications. Applying the same for the present case, the petitioner will be entitled for the increment if he had been appointed on the basis of B.Sc Computer Science or any related degree. However, the B.Sc Mathematics possessed by the petitioner is only a degree, upon which he could be considered as any other degree and any degree of higher qualification which is not prescribed under the said G.O.M.S and is not entitled, the petitioner cannot seek any incentives based on the qualification.

14. The petitioner further brought to the notice to the Court that order passed in W.P(MD).No.960 of 2011 wherein the very same G.O.M.S.No.240 dated 18.08.2010 came to be challenged and the petitioner counsel urged upon this Court that the petitioner herein has been similarly placed with the petitioner in that Writ petitions and prayed for issuing the same order. This Court perused the orders of this Honorable Court passed in W.P.No.960 of 2011 dated 16.04.2012 that was the case where challenge was made to the G.O in particular the application of the said G.O from the date on which the G.O was passed. In fact in the said Judgment rendered by this Court in paragraph 14 has held that "it is not in dispute that other teachers i.e. Other than vocational teachers, are granted incentive increment for all higher qualifications. Therefore, the vocational teacher was also be granted incentives increments for acquiring higher qualification. The Government order shall be read in such a way for granting incentives,



increments for higher qualifications. The purpose of grant of increment is to encourage the teachers to acquire higher qualification so that it will benefit the student community in larger". In W.P(MD)No.12816 of 2011 S.Rajaram Vs Directorate of School Education, it has been held that the Vocational teachers alone cannot be discriminated in the matter of granting incentive increments. it is not in dispute tha other teachers, such as Secondary Grade Teachers. BT Assistants and PG Assistants are granted incentive increments from the date of acquiring higher qualification. if that is so, there is no reason to deny the same benefit to the Vocational teachers and in their case alone, the incentive increments shall not be restricted from the date of issuance of the Government order.

15. The order passed by this Court cannot be read in tangent from the Government order in G.O.M.S.No.240. No doubt the incentives prescribed by the Government in its order, such incentives can only be granted to those higher qualification from the main stream of basic qualification prescribed under the Government order. Since the petitioner has not acquired the higher qualification as prescribed and specified in the G.O.M.S.No.240 dated 18.08.2010, the petitioner herein is not entitled for any incentives for higher qualification acquired by him than the qualification specified under the State Government order.

16. As per the G.O.M.S.NO.240 which was issued after the order dated 18.12.2008 in W.P(MD).No.5787 of 2007, the Government prescribing various qualification for availing benefit of incentives. Under these circumstances, this Court is not inclined to accept the contention of the petitioner and to direct the respondent to provide him necessary incentives for the additional qualification possessed by him. Accordingly, the Writ petition stands dismissed. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(A.E)

/True Copy/

Sub Assistant Registrar

raja

To

1. The Secretary to Government,
School Education Department,
Manthiram Government Estate,
Annasalai, Chennai - 600 002.



2. The Director of School Education,
College Road, Chennai - 600 006.
3. The Joint Director of School Education,
(Higher Secondary)
College Road, Chennai - 600 006.
4. The Joint Director,
(Vocational Education),
College Road, Chennai 600 006.
5. The Chief Educational Officer,
Madurai, Madurai District.

JAM/04/06/2018/ CSL/SAR 4 / 8p-6c

Pre-delivery Order in

W.P (MD) .No.5296 of 2014
and
M.P (MD) .No.1 of 2014

12.02.2018