

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.1169 of 2012

K.Padmavathi

.. Petitioner

Vs.

- 1.The Director of Elementary Education,
College Road,
Chennai 600 006.
- 2.The District Elementary Educational Officer,
Tiruvannamalai,
Tiruvannamalai District.
- 3.The Assistant Elementary Educational Officer,
Vandavasi, Tiruvannamalai District. .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 3rd respondent in Na.Ka.No.A2/41/2010 dated 20.01.2011 and quash the same and direct the respondents to include the petitioner's name in the panel of BT Assistants as on 01.01.2010 at the appropriate place with reference to her seniority and promote her as BT Assistant with effect from the date of promotion of her immediate junior and grant her incentive increment for acquiring M.Com qualification with effect from May, 1998 and grant all consequential benefits to the petitioner.

For Petitioner : Mr.P.Manoj Kumar

For Respondents : Mr.P.Raja,
Government Advocate

O R D E R

This Writ Petition is filed to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 3rd respondent in

Na.Ka.No.A2/41/2010 dated 20.01.2011 and quash the same and direct the respondents to include the petitioner's name in the panel of B.T Assistants as on 01.01.2010 at the appropriate place with reference to her seniority and promote her as B.T Assistant with effect from the date of promotion of her immediate junior and grant her incentive increment for acquiring M.Com qualification with effect from May, 1998 and grant all consequential benefits to the petitioner.

2.The petitioner was appointed as Secondary Grade Teacher on 07.08.1995 and was promoted as Primary School Headmaster on 23.07.2007. She possessed Secondary Grade Teacher Training Certificate at the time of appointment. She acquired B.Com. in May, 1995, M.Com. in the year 1998, B.Litt. in May, 2004 and B.Ed. in November, 2009. The petitioner was granted incentive increment for acquiring B.Ed. Degree, but she was not given any incentive increment for acquiring the Post Graduate course viz., M.Com.

3.The Government issued G.O.Ms.No.134, School Education (G2) Department dated 15.06.2007 stating that the Secondary Grade Teachers and Primary School Headmasters who had acquired the Under Graduate degree in any subject on or before 01.01.2007 are eligible to be appointed as B.T Assistants and Middle School Headmasters and can be given promotion to the said posts. The petitioner was fully qualified to be included in the panel of B.T Assistants and Middle School Headmasters. However, the petitioner's name was not included in the panel of B.T Assistants as on 01.01.2010. The petitioner sent representations to the 1st respondent to include her name in the panel dated 01.01.2010 and for grant of incentive increments for acquiring Post Graduate degree in M.Com. The 3rd respondent has rejected the representation of the petitioner on erroneous interpretations of G.O.Ms.No.134, School Education (G2) Department dated 15.06.2007. As per the said G.O, the Secondary Grade Teachers or Primary School Headmasters can be considered for promotion as B.T Assistants or Middle School Headmasters, if they had acquired Under Graduate degree in any subject on or before 01.01.2007. The petitioner has acquired B.Com. degree in the year 1995 itself. The said G.O does not speak about acquiring B.Ed. degree within any specified time and prayed for allowing the Writ Petition.

4.The respondents filed counter affidavit. The learned Government Advocate appearing for the respondents contended that the petitioner acquired B.Com degree in the year 1995, M.Com in the year 1998, B.Litt. in the year 2004 and B.Ed. in

the year 2009. She did not acquire B.Ed. degree before 01.01.2007. As per the Government Order, the Secondary Grade Teachers or Primary School Headmasters can be considered for promotion as B.T Assistants or Middle School Headmasters only if they had acquired Under Graduate degree in any subject on or before 01.01.2007. The incentive increments for acquiring Post Graduate degree was granted by G.O.Ms.No.42, Education Department dated 10.01.1969. In the said G.O, it has been specifically mentioned that incentive increment can be granted only if a person acquires Post Graduate degree in M.A. or M.Sc. or M.Ed. alone. M.Com. is not included in the said G.O.

4(i) Further, in G.O.Ms.No.907, P& AR (FR II) Department dated 17.09.1986, it has been specifically stated that higher qualification should be with reference to the area of specialization instead of in any subject. In such cases, the incentive increment can not be granted. M.Com. degree obtained by the petitioner would not serve any purpose to the children of the Middle School, where commerce subject is not at all taught and hence, the petitioner is not entitled to any incentive increment for M.Com. and prayed for dismissal of the Writ Petition.

5. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the materials available on record.

6. The petitioner has acquired B.Com. degree in May, 1995, M.Com. Degree in the year 1998, B.Litt. in May, 2004 and B.Ed. in November, 2009. As per G.O.Ms.No.134, School Education (G2) Department dated 15.06.2007, the Secondary School Teachers and Primary School Headmasters are eligible to be promoted as B.T Assistants or Middle School Headmasters if they acquire Under Graduate degree in any subject on or before 01.01.2007. The petitioner had acquired B.Com. degree in the year 1995 itself, long before the cut-off date i.e., 01.01.2007. The said G.O does not specify any time limit within which the Secondary Grade Teachers or Primary School Headmasters must acquire B.Ed. degree to be promoted as B.T Assistants or Middle School Headmasters. The said G.O is silent about B.Ed. degree and does not specify that Secondary Grade Teachers or Primary School Headmasters must possess Under Graduate and B.Ed. degree on or before 01.01.2007 to be promoted as B.T Assistants or Middle School Headmasters. The 3rd respondent without properly considering G.O.Ms.No.134, School Education (G2) Department dated 15.06.2007 and by erroneous interpretation of the said G.O, rejected the

representation of the petitioner for being promoted as B.T Assistant.

6(i) The proposal for appointment of B.T Assistant was in the year 2010, when the petitioner had acquired B.Com. degree as well as B.Ed. degree and she was fully qualified and eligible to be promoted as B.T Assistant in the year 2010. The respondents on erroneous interpretation of G.O.Ms.No.134, School Education (G2) Department dated 15.06.2007, failed to consider the request of the petitioner to be included in the panel for promotion as B.T Assistant in the year 2010. In view of the same, the respondents are directed to consider the case of the petitioner for promotion as B.T Assistant in the year 2010 and promote her as B.T Assistant on the date on which her immediate junior was promoted as B.T Assistant. The petitioner will be entitled to the scale of pay as B.T Assistant from the date on which her immediate junior was promoted, but she is not entitled to arrears of monetary benefits for the difference of salary of Secondary Grade Teacher and B.T Assistant.

7.As far as the increment for the qualification of possessing M.Com. degree is concerned, the petitioner is not entitled to incentive increment for acquiring M.Com. degree. The incentive increment for acquiring Post Graduate is introduced by G.O.Ms.No.42, Education Department dated 10.01.1969. The said G.O specifically mentions that increments can be granted only to the persons who acquired M.A., M.Sc., M.Ed. It did not include M.Com. degree. However, the contention of the respondents that in G.O.Ms.No.907, P & AR (FR II) Department dated 17.09.1986, it is specifically stated that for higher qualification with reference to the area of specialization in any subject, incentive increment should be sanctioned whereas, M.Com. degree obtained by the petitioner would not serve any purpose to the children of the Middle School, where commerce subject is not at all taught and hence, she is not entitled for incentive increment has considerable force. In such circumstances, the claim of the petitioner seeking incentive increment for acquiring M.Com. degree is devoid of merits and the 3rd respondent has rightly rejected the claim of the petitioner.

8.In the result, the Writ Petition is partly allowed. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

1.The Director of School Education,
College Road,
Chennai 600 006.

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

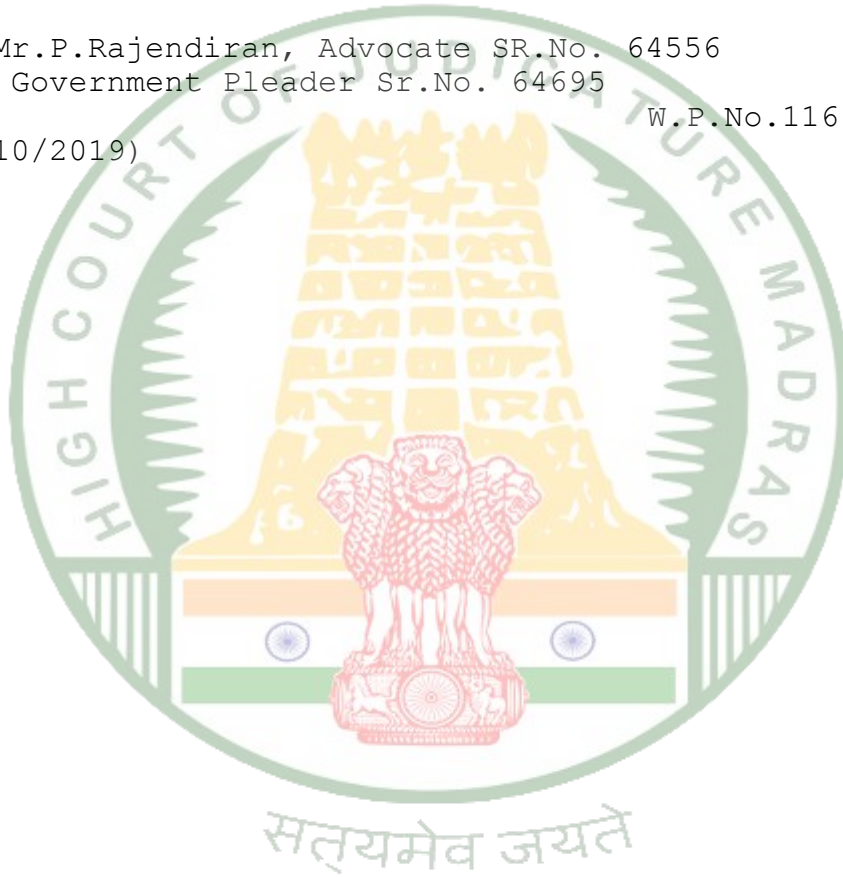
3.The Assistant Elementary Educational Officer,
Vandavasi, Tiruvannamalai District.

+1cc to Mr.P.Rajendiran, Advocate SR.No. 64556

+1 cc to Government Pleader Sr.No. 64695

W.P.No.1169 of 2012

A.SK(10/10/2019)



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