

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.26931 of 2008

N.Vijayarangan

.. Petitioner

-vs-

1. The Government of Tamil Nadu,
represented by the
Secretary to the Government,
School Education Department,
Fort St. George,
Chennai-600 009.
2. The Chief Educational Officer,
Villupuram, Villupuram District. Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified mandamus to call for the records relating to the impugned order of the second respondent in Na.Ka.No.14883/Aa-4/97 dated 21.08.2007 and quash the same and direct the respondents to sanction 2 advance increments to the petitioner for passing M.A. Degree examination and 2 advance increments for passing M.Ed., Degree examination with effect from the date of passing the said examinations and grant all consequential benefits to the petitioner.

For Petitioner :: Mr.P.Mohanraj
For Respondents :: Mrs.P.Kavitha,
Government Advocate

ORDER

The writ petition has been filed challenging the correctness of the impugned Proceedings in Na.Ka.No.14883/Aa-4/97 dated 21.08.2007 issued by the second respondent and seeking a direction to the respondents to sanction two advance increments each to the petitioner for passing M.A. and M.Ed. Degree examination with effect from the date of passing the said examinations and grant him all consequential benefits.

2. According to the learned counsel appearing for the petitioner, the petitioner was initially appointed as Weaving Instructor on part-time basis on 22.09.1976 and thereafter, he was appointed as Full time Weaving Instructor on 20.06.1977. However, the petitioner was allowed for getting two advance increments for acquiring B.Ed. degree in the year 1986. Subsequently, the petitioner acquired M.A. and M.Ed. degree in the years 1989 and 1992. In this regard, the petitioner submitted a representation to the Assistant Educational Officer, Thiruvannainallur on 20.11.1991 claiming two advance increments each for possessing M.A. and M.Ed. Degree, but the same was rejected on the ground that there was no provision under the rules for granting such increments. Against the said order, the petitioner preferred an Appeal before the Chief Educational Officer, Cuddalore on 05.02.1993. Finding no response, he approached the Tamil Nadu Administrative Tribunal, Chennai by filing O.A. No.5703 of 1993 seeking direction to sanction two advance increments each for possessing the said qualifications. Consequent to the abolition of the Tribunal, the said case was transferred to this Court and the same was re-numbered as W.P. No.16278 of 2006. Though this Court by order dated 13.04.2007 directed the Chief Educational Officer, Villupuram to consider the petitioner's appeal dated 05.02.1993, the second respondent rejected the claim of the petitioner. Therefore, the petitioner is before this Court.

3. Learned counsel appearing for the petitioner would further submit that when it is a settled legal position that a teacher is eligible for a maximum of six advance increments as per G.O. Ms. No.42 Education dated 10.01.1969, the second respondent ought not to have rejected the claim of the petitioner, who is eligible to get two advance increments each for acquiring M.A. and M.Ed. Degree and therefore, the impugned order is liable to be quashed.

4. It is not in dispute that the petitioner was allowed to get two advance increments for acquiring B.Ed. Degree in the year 1986. Thereafter, he also acquired M.A. and M.Ed. degree in the years 1989 and 1992 respectively. The issue raised in this writ petition is no longer res integra since the same has been decided by the Division Bench of the Madurai Bench of the Madras High Court vide order dated 18.09.2014 in W.A. (MD) No.867 of 2014. It is relevant to extract para 36 as under:

'36. Though both the cases relate to Tamil Pandits, the principle of law to be applied for grant of incentives for having higher qualifications in service, at the time of entry into service or subsequently acquired, applies to a B.T. Teacher also. At this juncture, we wish to state that from the Government Orders referred

to above, what is required to be considered is the educational qualifications possessed or acquired by a teacher. Now, when this Court has recognised the grant of advance incentive increment to a Tamil Pandit I, for possessing B.T. Qualification and when the Government have recognised the right of Tamil Pandit II, to seek for advance increments for acquiring B.T. Qualification, in the post of Tamil Pandit II, and further recognised the rights of both, to claim advance increments, after B.T. and M.A. Separately and thereafter, for M.Ed. Qualification, in terms of G.O. Ms. No.42, we are unable to understand as to how the Government could raise objections. The objections are untenable.'

5. In view of the above settled legal position, this Court is of the view that the petitioner is eligible to get two advance increments each for acquiring M.A. and M.Ed. Degree. Therefore, the impugned order is quashed and the writ petition is allowed. Accordingly, the respondents are directed to sanction two advance increments each to the petitioner for passing M.A. and M.Ed. Degree examination within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vga
To

1. The Government of Tamil Nadu,
represented by the
Secretary to the Government,
School Education Department,
Fort St. George, Chennai-600 009.

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

+1cc to Mr.P.Rajendran, Advocate, S.R.No.16246
+1cc to the Government Pleader, S.R.No.16632

W.P.No.26931 of 2008

PP(CO)
CS/27/04/2019