

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2019

CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P.NO.24054 of 2009

B.Veman

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Petitioner

Vs

1. The State of Tamil Nadu represented by
The Secretary to Government, Finance (Pension)
Department, Fort St.George, Chennai-9.
2. Accountant General (A& E)
Tamil Nadu, Teynampet, Chennai 600 018.
3. The Director of School Education, DPI Compound
College Road, Chennai - 600 006.
4. The Chief Educational Officer
Vellore, Vellore District.
5. The Headmaster, T.E.M.Government
Higher Secondary School, Sholinghur
Vellore District.

....

Respondents

Prayer :

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order bearing Na.Ka.No.51/2009 dated 19.5.2009 passed by the fifth respondent and quash the same as illegal, improper, against law, ultivires, arbitrary, against the G.O.Ms.No.52 dated 27.02.2003 and G.O.Ms.No.604 dated 03.12.2003 passed by the first respondent and violation of principles of natural justice and thereby direct the respondent to grant the annual increment to the petitioner from 01.07.2008 and to pay the said amount to the petitioner from 01.07.2008.

For Petitioner	:	M/s.G.Sankaran
For Respondents	:	Mr.K.Ravi Kumar, Special Govt.Pleader for RR 1,3 to 5 Mr.P.Manoranjan for Mr.T.Ravikumar - for R2

O R D E R

This writ petition has been filed by a retired teacher viz., B.Veman, who served as P.G.Assistant Teacher in Commerce in the fifth respondent school. He retired from service on 30.06.2008. The petitioner has come before this Court seeking a writ of Certiorarified Mandamus to quash the order bearing Na.Ka.No.51/2009 dated 19.5.2009 passed by the fifth respondent as it is against the G.O.Ms.No.52 dated 27.02.2003 and G.O.Ms.No.604 dated 03.12.2003 passed by the first respondent and thereby direct the respondent to grant the annual increment to the petitioner from 01.07.2008 and to pay the said amount to the petitioner from 01.07.2008.

2. The petitioner joined service as Secondary Grade Teacher on 28.01.1972 and later on as per the order of the Director of School Education (Higher Secondary) Chennai 600 006 in Na.Ka.No.28657/W-20/89 dated 21.12.1989, the petitioner was appointed as Post Graduate Assistant Teacher in Commerce in the scale of pay of Rs.1820-60-2300-75-3200. The petitioner attained superannuation on 30.06.2008, which fell during the middle of the academic year and hence he was given re-employment from 01.07.2008 to 31.05.2009 and was employed till 31.05.2009. On this basis, it was pleaded that the petitioner's annual increment will lie on every first day of July and his annual increment accordingly fell on 01.07.2008, and the increment of Rs.275/- should have been paid on 08.04.2009, for which he has given a representation to the Headmaster of the fifth respondent school with a request to grant the increment of Rs.275/- from 01.07.2008, which was rejected.

3. Mr.G.Sankaran, learned counsel for the petitioner fairly submitted that the petitioner is not claiming any annual increment for the period of re-employment ie., for the period from 01.07.2008 to 31.05.2009. He has also submitted that similar issue has been repeatedly covered by orders of this Court, and one such order has been passed by me in W.P.No.19872 of 2017 and submitted that since the petitioner retired one day before the date of increment ie., on 30.06.2008 and 01.07.2008 happens to be the date of increment, he is also entitled to get the increment as per Fundamental Rule No.26(a) Appendix (ix).

4. Learned Additional Government Pleader also fairly agreed to the said proposition by producing G.O.Ms.No.140 dated 25.04.2018, which was implemented pursuant to the orders passed by this Court in various writ petitions cited in the Government Order. The relevant portion of the G.O.Ms.No.140, Finance (Pay Cell) Department dated 25.04.2018, reads as follows.

“ 6. After careful consideration of the various judgments passed by the Hon'ble High Court, the Government have decided to comply the orders of the Hon'ble High Court in favour of all eligible retired employees who have completed one full year of service and not sanctioned annual increment due to their superannuation prior to 31.12.2014. Accordingly, Government extend the benefit of sanction of annual increment to all the petitioners who have filed various writ petitions and all other similarly placed persons who retired prior to 31.12.2014 and completed one full year of service prior to their retirement, notionally with effect from the date of their retirement for the purpose of revision of pension with monetary benefit prospectively with effect from 31.12.2014 ie., from the date of issue of G.O.Ms.No.311, Finance (CPMC) Department, dated 31.12.2014.

7. The Government also direct that the rate of notional increment granted above, shall not exceed the eligible rate based on the basic pay drawn by the employee on the date of retirement.

8. Necessary amendment to Fundamental Rules will be issued by the Personnel & Administrative Reforms Department separately.”

5. In the light of the above, when the petitioner retired on 30.06.2008 just one day before the date of annual increment on 01.07.2008, he is also entitled to get the increment as per F.R.No.26(a) Appendix (ix). Therefore, the writ petition stands allowed and the respondents are directed to sanction the last increment which fell on 01.07.2008 within a period of six weeks from the date of receipt of a copy of the order. It is needless to mention that the petitioner is entitled to get all consequential benefits, following the grant of the last increment as stated above.

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Sd/-
Assistant Registrar(CS IV)
//True Copy//

Sub Assistant Registrar

KST

To

1. The Secretary to Government, Finance (Pension)
Department, Fort St.George, Chennai-9.
2. Accountant General (A& E)
Tamil Nadu, Teynampet, Chennai 600 018.
3. The Director of School Education, DPI Compound
College Road, Chennai - 600 006.
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5. The Headmaster, T.E.M.Government
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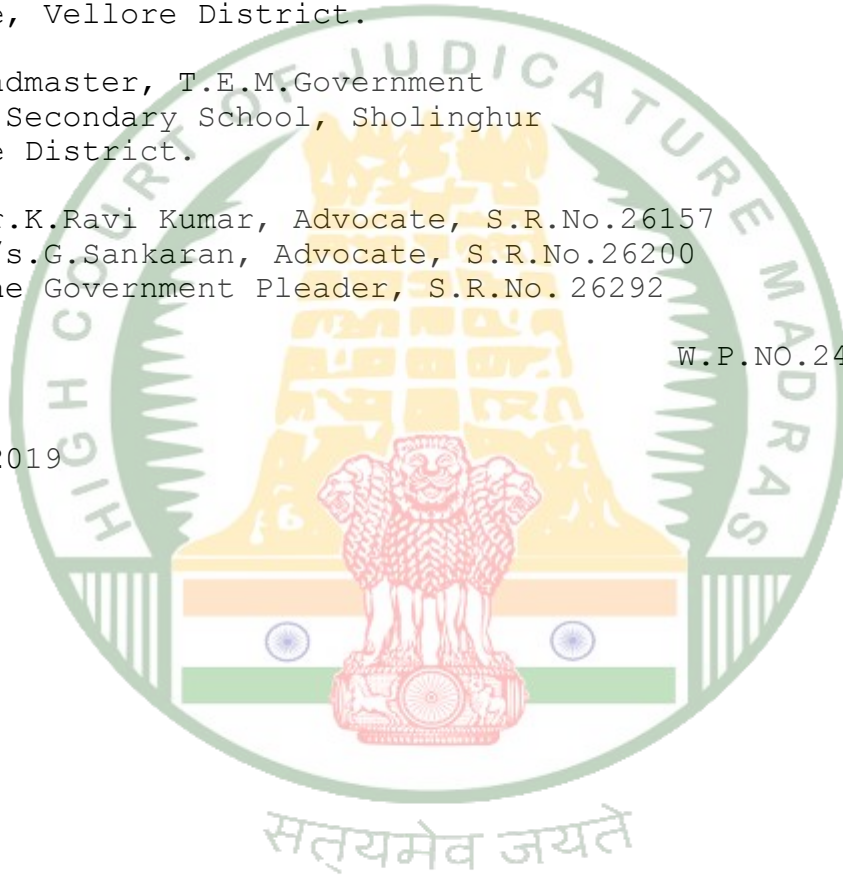
+1cc to Mr.K.Ravi Kumar, Advocate, S.R.No.26157

+1cc to M/s.G.Sankaran, Advocate, S.R.No.26200

+1cc to the Government Pleader, S.R.No. 26292

W.P.NO.24054 of 2009

AD(CO)
CS/12/04/2019



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