

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.6692 of 2009

Dr.R.Natarajan

... Petitioner

Vs

1. The Deputy Secretary to Government of
Tamil Nadu,
Small Industries Department,
Fort St. George, Chennai-600 009.
2. The Industries Commissioner and
Director of Industries and Commerce,
Chepauk, Chennai-600 005. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in Letter No.2228/Pani 1.1/2008-1 dated 21.5.2008 on the file of the 1st respondent and consequential order in Letter Na.Ka.No.13254/EE-I/2008-1 dated 3.3.2009 on the file of the 2nd respondent and quash the same and further direct the respondents to sanction one advance increment for acquiring higher qualification of Ph.D. (Doctoral) Degree in Engineering of the petitioner w.e.f. 17.12.1991.

For Petitioner : Mr.S.Sivasankar

For Respondents : Mr.N.Srinivasan,
1 and 2 Addl. Govt. Pleader

O R D E R

Challenging the order in Letter No.2228/Pani 1.1/2008-1 dated 21.5.2008 on the file of the 1st respondent and the consequential order in Letter Na.Ka.No.13254/EE-I/2008-1 dated 3.3.2009 on the file of the 2nd respondent, quash the same and for further direction, directing the respondents to sanction one advance increment for acquiring higher qualification of Ph.D. (Doctoral) Degree in Engineering by the petitioner w.e.f. 17.12.1991, the present Writ Petition has been filed.

2. Learned Counsel appearing for the petitioner submitted that initially, the petitioner joined as Foreman in the 2nd respondent department on 29.3.1963 after acquiring Diploma in Mechanical Engineering (D.M.E.) and thereafter, promoted as a Production Assistant on 2.7.1965. While so, in the year 1974, he acquired B.E. Degree from the Madras University and promoted as an Assistant Director of Industries and Commerce during the year 1975. Subsequently, in the year 1983, he acquired M.E. Degree from the Anna University, Chennai and promoted as a Deputy Director of Industries and Commerce in the year 1989 and later on, promoted as a Joint Director of Industries and Commerce in the year 1992. As he was having aspiration for acquiring Ph.D. (Doctoral) Degree, he sent an application for pursuing the Ph.D. (Doctoral) Degree. Thereafter, with permission he also obtained Fellowship (Ph.D) in December, 1991 and subsequently, the 1st respondent promoted him to the post of Special Officer for the Development of Woman Entrepreneurs and Women Enterprises in the cadre of Joint Director of Industries and Commerce vide G.O.Ms.No.495, Industries Estt.I(2) Department dated 25.9.1992. While so, the petitioner retired from service on 31.3.1999 on reaching the age of superannuation in the capacity of Joint Director of Industries and Commerce after completion of 36 years of service without any remarks.

3. Now the grievance of the petitioner is that he was granted first incentive increment for having acquired B.E. Degree in the year 1974 from the Madras University and the second incentive increment for having acquired M.E. Degree in the year 1983 from Anna University. Thereafter, after obtaining Fellowship (Ph.D) in December, 1991, as he is entitled to get third incentive increment, he has made a number of representations to the respondents during the course of his employment and after retirement from service. Since the claim of the petitioner was rejected by the 1st respondent by letter dated 05.12.2007, he made a representation to the Chief Minister's Cell which was forwarded to the 1st respondent on 19.6.2008 and that was also rejected by the consequential order dated 3.3.2009 without giving any reason. Therefore, the petitioner is before this Court with this Writ Petition.

4. A detailed counter affidavit has been filed by the respondents.

5. Supporting the order impugned in the Writ Petition, the learned Additional Government Pleader appearing for the respondents submitted that the petitioner having received two incentive increments, namely, one for acquiring B.E. in the year 1974 from Madras University and the 2nd for acquiring M.E. in the year 1983 from Anna University, he is not entitled to get third incentive increment. Therefore, the present Writ Petition is

liable to be dismissed.

6. Considering the facts and circumstances of the case, this Court is of the view that the issue raised in this Writ Petition is no longer res integra since the same has already been considered and decided by a Division Bench of this Court in the Director of School Education, DPI Campus, College Road, Chennai-6 and 2 others vs. V.Dhanapal in W.A.No.1664/2016 dated 19.06.2018. The relevant portion is reproduced here under:

'7. The policy decision of the Government has been consistent to the effect that the teachers who acquire higher qualifications can be granted two incentive increments equivalent to four advance increments, during the entire tenure of their service. There is no dispute regarding the fact that the respondent has been awarded two incentive increments for acquiring B.E. And M.A. Qualifications. Therefore, he cannot, as a matter of right, claim the third set of incentive increments for having obtained M.Phil. Qualification. We are therefore, unable to sustain the order of the learned Single Judge directing payment of third incentive increment to the respondent.'

Therefore, when the issue in dispute has already been decided by this Court as cited above, following the same, the present writ petition is liable to be dismissed. Accordingly, the same is dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

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To

1. The Deputy Secretary to Government of Tamil Nadu,
Small Industries Department,
Fort St. George, Chennai-600 009.

2. The Industries Commissioner and
Director of Industries and Commerce,
Chepauk, Chennai-600 005.

+1cc to Government Pleader SR.No.33472

W.P.No.6692 of 2009

SAI (CO)
GMY (03/05/2019)



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