

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.40446 of 2015

P.A.Abdul Saleem

... Petitioner

Vs

1.The Director of School Education, Chennai-06

2.The Chief Educational Officer, Vellore

3.The District Educational Officer,
Vellore Educational District, Vellore

4.The Head Master, Government Girls Higher
Secondary School, Kaveripakkam, Vellore

... Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the Respondents to grant 1st set of 3rd incentive increment to the Petitioner for having acquired M.A. (English), by calculating the arrears from the date of his qualification of M.A. (English) i.e. June 2009, in view of the GO.Ms.No.1023, dated 09.12.1993 (Education, Science and Technology Department) and in view of the order of the Division Bench of the Madurai Bench of this Court, dated 18.09.2014, made in WA(MD)No.867 of 2014, within a time to be stipulated by this Court.

For Petitioner :Mr.M.Rajendiran

For Respondents:Mrs.P.Kavitha, Government Advocate

ORDER

1.The prayer in this Writ Petition is to issue a Writ of Mandamus, directing the Respondents to grant 1st set of 3rd incentive increment to the Petitioner for having acquired M.A. (English), by calculating the arrears from the date of his qualification of M.A. (English) i.e. June 2009, in view of the GO.Ms.No.1023, dated 09.12.1993 (Education, Science and

Technology Department) and in view of the judgement of the Division Bench of the Madurai Bench of this Court, dated 18.09.2014, made in WA(MD)No.867 of 2014, within a time frame to be stipulated by this Court.

2. The facts leading to filing of this Writ Petition are that the Petitioner herein had completed B.A. (History) in the year 1977 and he had joined as B.T. Teacher in the Government Secondary and Teacher Training School Chennai on 28.11.1999 and thereafter, he had completed M.A. (History) in the year 2005 and M.A. (English) in the year 2009 and M.Phil in the year 2011. The Petitioner had retired from service 28.02.2013 as P.G. (Assistant), when he was working at Kaveripakkam Girls Higher Secondary School, Vellore. When the Petitioner was serving as a B.T. Teacher, he had been awarded with 1st set of incentive increment for having acquired M.A. (History) in the year 2006 and 2nd set of increment for having acquired M.Phil in the year 2011. Relying on the GO.Ms.No.1023, dated 09.12.1993, which provides that a person, acquiring M.A. or M.Sc. or M.Ed Qualification, is eligible for two advance increments, the Petitioner had requested for 3rd set of incentive increment for having acquired M.A. (English) in the year 2009, but the said request was not considered. Hence, this Writ Petition has been filed, seeking the relief as stated above.
3. According to the learned counsel for the Petitioner, as per the GO.Ms.No.1023, dated 09.12.1993 (Education, Science and Technology Department), the Petitioner herein is eligible for two advance increments for having acquired M.A. (English) in the year 2009. The learned counsel for the Petitioner has also relied on the judgement of the Division Bench of the Madurai Bench of this Court, dated 18.09.2014, made in WA(MD)No.867 of 2014, wherein it was held that the Petitioner therein was entitled to get third set of incentive increment for having obtained M.Ed qualification and that the Petitioner therein can claim such a right even after retirement and that since the Petitioner herein is also similarly placed to that of the Petitioner in WA(MD)No.867 of 2014, the Petitioner herein is entitled to get the 3rd set of incentive increment for having acquired M.A. (English) qualification.
4. On the other hand, the learned Government Advocate for the Respondents has objected for granting the relief as sought for in this Writ Petition, contending that as per the GO.Ms.No.1023, dated 09.12.1993 (Education, Science and Technology Department), the Petitioner is eligible for two advance increment for acquiring M.A. or M.Sc. or M.Ed qualification, which is equivalent to four advance increments and that since he had already been awarded with 1st set of

incentive increment for having acquired M.A. (History) in the year 2005 and 2nd set of increment for having acquired M.Phil in the year 2011, he is not eligible to get the 3rd set of increment for acquiring additional qualification of M.A. (English) in the year 2009.

5. The learned Government Advocate for the Respondents has further contended that in the judgement of the Division Bench of the Madurai Bench of this Court, dated 18.09.2014, made in WA(MD)No.867 of 2014, it was held that the said GO shall be made applicable only to past cases, i.e. to the persons, those who had already obtained the above qualification, prior to the date of the said GO and that the maximum higher qualification shall be four only and that in yet another judgement of the Division Bench of this Court, dated 29.06.2018 made in WA.No.1664 of 2016, it was held that when the Petitioner therein was awarded with two incentive increments, the Petitioner therein, as a matter of right, cannot claim third set of incentive increment for having obtained M.Phil qualification, since GO.Ms.No.1023, dated 9.12.1993 restricts the maximum number of incentive increments to two only and hence, the Petitioner herein is not eligible for the relief as prayed for.
6. This court heard the learned counsel on either side and considered their submissions and also perused the materials placed on record.
7. The GO.Ms.No.1023, relied on by the Petitioner is dated 09.12.1993. In the case on hand, admittedly, the Petitioner herein had completed M.A. (History) in the year 2005 and M.A. (English) in the year 2009 and M.Phil in the year 2011. The Petitioner had retired from service 28.02.2013. It is also not in dispute that when the Petitioner was serving a B.T. Teacher, he had been awarded with 1st set of incentive increment for having acquired M.A. (History) in the year 2005 and 2nd set of increment for having acquired M.Phil in the year 2011. Thus, the Petitioner herein had been granted two incentive increments, which is equivalent to four advance increments.
8. The relevant portion of the judgement of the Division Bench of the Madurai Bench of this Court, dated 18.09.2014, made in WA(MD)No.867 of 2014, is extracted as under:-

"..... This concession shall be admissible only to past cases i.e. to those who have already obtained the above qualification, prior to the date of issue of the government order. In future, the maximum higher qualification under the order first read above shall be four only."

9. The above said position had been reiterated by the Director of Elementary Education, Chennai, by proceedings dated 25.06.1994 to the effect that in order to avail the benefit of 3rd incentive increments, he/she should have acquired the Higher Education prior to 09.12.1993. In WA(MD)No.867 of 2014, the Petitioner therein had acquired the additional qualification prior to the date of GO.MS.No.1023, i.e. 9.12.1993. Whereas in the case on hand, the Petitioner had acquired the M.A. (English) qualification in the year 2009, which is prior to the date of said GO. Further, in the said judgement, dated 18.09.2014, in so far as the future prospects is concerned, the Division Bench had held that the maximum higher qualification shall be four only.

10. The relevant portion of the said G.O. dated 09.12.1993 reads to the effect that the maximum number of advance increments which a Teacher can get under the Scheme of incentive increments under this Government Order shall be four in his entire service. One incentive increment is equivalent to two advance increments. The said position was clarified by the Government in G.O.Ms.285, School Education Department dated 28.11.2007, which reads as follows:-

"As per the policy decision of the Government, two incentives (four increments) only may be granted to the teachers for the entire period of their service and hence, accepting the above recommendation of the Director of School Education, for the Headmasters who got only one incentive for M.Ed. qualification during his service as Post Graduate Teachers and promoted to the Headmaster Post and after the promotion as Headmasters, on acquiring M.Phil/Ph.D/PGDTE qualification allowing a second incentive to such Headmasters from the date of the issue of this G.O. is ordered."

11. In the judgement of the Division Bench of this Court, dated 29.06.2018 made in WA.No.1664 of 2016, the claim of the Petitioner therein of 3rd set of incentive increment for having acquired M.Phil qualification was rejected, considering the fact that the Petitioner therein had already been granted with two incentive increments, which is equivalent to four advance increments and placing reliance on the GO.MS.No.1023, dated 09.12.1993.

12. In so far as the case on hand is concerned, considering the above said facts and circumstances of the case on hand and in the light of the judgement of the Division Bench of the Madurai

Bench of this Court and the Division Bench of this Court, referred to above and placing reliance on the GO.Ms.No.1023, dated 09.12.1993 and the subsequent proceedings dated 25.06.1994 of the Respondent Department and admittedly when the Petitioner herein had been awarded with two incentive increments, as stated above, which is equivalent to four advance increments, in the opinion of this Court, the Petitioner herein cannot claim, as a matter of right, the third set of incentive increment for having obtained M.A. (English) in the year 2009, which is prior to the date of the said GO, i.e. 09.12.1993 and as such, the relief as sought for in this Writ Petition cannot be granted and consequently, this Writ Petition is liable to be dismissed.

13.In the result, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Srcm

To

- 1.The Director of School Education,
Chennai-06.
- 2.The Chief Educational Officer,
Vellore.
- 3.The District Educational Officer,
Vellore Educational District, Vellore.
- 4.The Head Master, Government Girls Higher Secondary School,
Kaveripakkam, Vellore.

+1cc to M/s.M.Rajendiran, Advocate Sr.104789

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cp[co]
srg 10/02/2020