

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.16449 of 2019

B. Ramasubramanian

..Petitioner

Vs.

1. Government of Tamil Nadu,
represented by Secretary to the Government,
Public Works Department,
Secretariat, Chennai- 600 009.

2. The Engineer in-Chief, (WRO)
& Chief Engineer (GI),
Public Works Department,
Chepauk, Chennai- 5.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus or any other appropriate writ or order or direction in the nature of a writ, directing the 1st respondent herein to pass appropriate orders granting two advance increments to the petitioner for acquiring MBA qualification w.e.f 06/12/2007 and to grant all monetary benefits in terms of Judgment dated 23.07.2013 in W.P.No.18674 of 2011 in which if the first respondent therein, within a limited time frame as deem fit by this Hon'ble Court and pass such further or other orders.

For Petitioner : Mrs. Priya Ravi

For Respondents : Mr. A. Srijayanthi,
Additional Government Pleader

ORDER

The petitioner has filed this Writ Petition seeking to grant two advance increments to the petitioner for acquiring MBA qualification w.e.f 06/12/2007 and to grant all monetary benefits in terms of Judgment dated 23.07.2013 in W.P.No.18674 of 2011 in which the respondents herein were the respondents therein.

2. The case of the petitioner is that the petitioner was initially appointed as Technical Assistant in the year 1985. Thereafter, he was promoted to the post of Junior Engineer during the year 2000 and as Assistant Engineer during the year

2006. He was promoted as Assistant Executive Engineer on 19.08.2015. He acquired the Master of Business Administration (MBA) qualification from Indira Gandhi National Open University (IGNOU) in the year 2007, after obtaining permission from the concerned authorities. The said Post Graduation has also been recorded in his Service Register and he made a representation to grant two advance increments, as per the orders in force; however the same was rejected by the second respondent vide proceedings dated 16.03.2011 wherein it was held that as per the G.O.Ms.No.154, Personnel & Administrative Reforms Department dated 26.10.2010, the petitioner could not be granted two increments. The very same G.O. was challenged before this Court in W.P.No.18674 of 2011 with the similar prayer as sought in the present Writ Petition. It was considered by this Court and the relevant portions of the order are as follows:

"6. To lend support to his contention that G.O.Ms. No.154 P & AR Department dated 26.10.2010 is not applicable to the petitioner's case, the Learned counsel for the petitioner relies on the order of this Court dated 23.1.2013 in W.P.Nos.7170, 15887 of 2010 and 6397 of 2012, wherein in paragraphs 7 to 11, it is observed and held hereunder:-

7. It is not in dispute that the Board granted two advance increments for acquiring MBA degree to some of the Assistant Engineers or the Board. The petitioners are also similarly placed persons. Hence, I am of the view that the petitioners are also entitled to two advance increments as given to others.

8. However, it is submitted by the respondents that G.O.Ms. No.154, Personnel and Administrative Reforms (FR-1) Department, dated 26.10.2010, was passed cancelling G.O.Ms.No.825, Personnel and Administrative Reforms (FR-1) Department, dated 6.7.1977, that granted advance increments for acquiring MBA degree. Hence, the petitioners are not entitled to claim advance increment.

9. I am not inclined to agree with the submissions made by the learned counsel for the respondents, since all the petitioners acquired the MBA qualification before 2009 itself and the person, who are similar like that of the petitioners, were granted two advance increments.

10. It is well settled that G.O.Ms.No.154, dated 26.10.2010 cannot take away the accrued right of the petitioners, who acquired MBA Degree before 2009 itself and therefore, the said GO would only operate prospectively.

11. For all above reasons, a direction is issued to the first respondent Board to grant two advance increments to the petitioners, from the date on which they acquired MBA qualification, with all monetary benefits. The first respondent is directed to pay the arrears within a period of six weeks from the date of receipt of a copy of this order"

3. This Court held that GO.Ms. 54 dated 26.10.2010 cannot take away the accrued right of the petitioners, who acquired MBA Degree before 2009 itself and therefore, the said GO would only operate prospectively. The petitioner acquired the MBA Degree in the year 2007. The decision referred by the learned counsel for the petitioner squarely applies in the present case also. Accordingly, the Writ Petition is allowed and the second respondent is directed to grant two advance increments to the petitioner from the date on which he acquired MBA qualification with all monetary benefits, within a period of twelve (12) weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to the Government,
Government of Tamil Nadu, Public Works Department,
Secretariat, Chennai- 600 009.

2. The Engineer in-Chief, (WRO) & Chief Engineer (GI),
Public Works Department, Chepauk, Chennai- 5.

+1 cc to M/s.M.Ravi, Advocate Sr.No. 80316

AKM/28.11.19/3P-4C /

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