



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2019

CORAM

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THE HONOURABLE MR.JUSTICE **S . S . SUNDAR**

W.P. (MD)No.11609 of 2014

and

M.P. (MD)No.1 of 2014

R.Paramasivan

... Petitioner

vs.

1.The Chief Educational Officer,
Collectorate Campus, Virudhunagar.

2.The District Educational Officer,
Behind State Bank of India,
Madurai Road, Aruppukottai,
Virudhunagar District.

3.The Secretary,
R.U.K.N.M.S.P.N.High School,
Ramanaickanpatti,
Chidambarapuram Post,
Aruppukottai Taluk,
Virudhunagar District- 626 134.

... Respondents

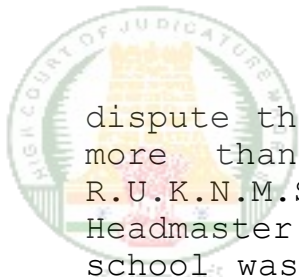
Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in O.Mu.No.1936/A1/2014, dated 09.06.2014 on the file of the second respondent and quash the same as illegal and consequently to direct the second respondent to award bonus increment to the petitioner in the light of G.O. (Ms)No.562, dated 28.10.1998 with back-wages.

For Petitioner : Mr.S.Karthick

For R1 and R2 : Mr.N.Shanmugam Selvam
Additional Government Pleader

O R D E R

The petitioner joined as a Teacher originally in SBK Higher Secondary School, Kalloorani, Virudhunagar District, on 15.10.1979. After completion of B.Ed., it is stated that the petitioner continued working as a fully qualified P.G.Assistant from 09.12.1980, after the approval by the Government. It is not in



dispute that the petitioner, after serving in the first School for more than six years, migrated to another School, known as R.U.K.N.M.S.P.N. High School, Ramanaickanpatti, and joined as Headmaster on 08.04.1987. The migration of petitioner to another school was with the concurrence of management of both Schools and the Chief Educational Officer, Virudhunagar District. Though notional increment would be awarded, if it is considered as promotion, it is the specific case of the petitioner that no notional increment was awarded to the petitioner. It is stated that the petitioner was drawing the same scale of pay, even after the migration to new school, in 1987.

2.The petitioner submitted that he was given Special Grade on 09.12.1990 taking into account the service as P.G.Assistant in the original School, namely, SBK Higher Secondary School. It is further stated that the petitioner's service as P.G.Assistant in the first school and his service as High School Headmaster were merged and calculated for the purpose of giving him the Selection Grade. It is also stated that the petitioner was granted Special Grade with effect from 09.12.2000 and retired from service on 31.03.2014.

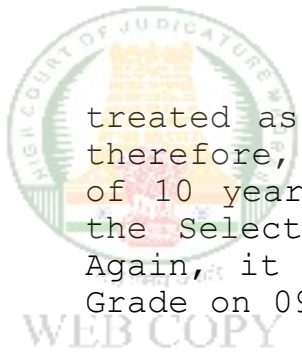
3.As per G.O.(Ms).No.562, dated 28.10.1998, it is admitted that the employee stagnated in a post beyond 30 years, that is the employee stagnating in the Special Grade beyond 10 years, will have the benefit of a bonus increment as incentive. The said Government Order come into effect from 1st September'1998. Since the petitioner was granted Special Grade with effect from 09.12.2000 upon completion of 20 years of service, the petitioner in claiming the benefit of G.O.Ms.No.562, dated 28.10.1998 upon completion of 30 years of service in the same post and after completion of 10 years in the Special Grade.

4.The representation submitted by the petitioner was forwarded to the second respondent through the Secretary of the latter School, in which the petitioner was working as Headmaster. By impugned order, dated 09.06.2014, the second respondent rejected the request of the petitioner on the ground that the benefit of Government Order can be given to a person, who is in service for 30 years in the same post. Since the petitioner was appointed as P.G.Assistant in the previous school and he migrated to another school and appointed in the post of Headmaster, it is stated that the petitioner is not entitled to get the bonus incentive.

5.The second respondent filed a counter affidavit before this Court supporting the impugned order in the same line.

6.The question is whether the petitioner is entitled to the benefit of G.O.(Ms)No.562, dated 28.10.1998.

7.Going by the facts admitted, the petitioner though migrated to a different School in 1987, his migration was not



treated as a promotion by giving any notional increment. It was, therefore, the petitioner was given Selection Grade upon completion of 10 years of service from the date of appointment. Admittedly, the Selection Grade was granted to the petitioner on 09.12.1990. Again, it is admitted that the petitioner was also given Special Grade on 09.12.2000 upon completion of 20 years of service.

8.The Government, vide G.O.(Ms)No.562, dated 28.10.1998, enables the employees who stagnated in a post beyond 30 years, to receive one bonus increment as incentive. It is indicated in the same order that the teachers, who are working in the Special Grade beyond 10 years, are entitled to bonus increment. In such circumstances, the reasoning of the second respondent to reject the request of the claim of the petitioner is contrary to the Government Order.

9.The petitioner is drawing the same salary, that is applicable to the post of P.G.Assistant right from the date of appointment. The bonus increment is to give a benefit to the employee, who stagnates in a post beyond 30 years. The petitioner's entitlement to get one bonus incentive increment is supported by Government Order in G.O.(Ms).No.562, dated 26.10.1998. Merely because the petitioner migrated to a different School and posted as a Headmaster is not sufficient to deny the relief to the petitioner, as the petitioner's migration was never treated as promotion and there was no increase in the salary of the petitioner. Hence, the petitioner is entitled to the relief as prayed for.

10.Accordingly, this writ petition is allowed and the impugned order in O.Mu.No.1936/A1/2014, dated 09.06.2014, passed by the second respondent is quashed. The second respondent is directed to award one bonus increment to the petitioner in terms of G.O.Ms.No.562, dated 28.10.1998 and disburse all the monetary benefits to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

To

1.The Chief Educational Officer,
Collectorate Campus, Virudhunagar.



2.The District Educational Officer,
Behind State Bank of India,
Madurai Road, Aruppukottai,
Virudhunagar District.

+1 CC to M/s.SPL GP (SR-86907[F] dated 16/09/2019)

+1 CC to M/s.S.KARTHIK, Advocate (SR-86870[F] dated 16/09/2019

W.P.(MD)No.11609 of 2014
13.09.2019

CMR

MS/03.10.2019/4P.5C