



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.16144 of 2014

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M.Jeyamani

... Petitioner

vs.

1. The Principal Accountant General (A&E)
Anna Salai, Chennai-600 018
2. The Joint Director of School Education (Personnel)
College Road, Chennai-600 006
3. The Chief Educational Officer
Dindigul District
Palani Road
Dindigul-624 001
4. The District Educational Officer
Palani Educational District
Palani, Dindigul District
5. The Head Master
Government High School
Kanakkanpatti
Palani Educational District
Dindigul District-624 613

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the respondents to pay increment to the petitioner for the period from 01.07.2010 to 30.06.2011 with all consequential revision in pension amount.

For Petitioner : Mr.L.Shaji Chellan

For Respondents : Mr.P.Gunasekaran for R1

Mrs.S.Srimathy

Special Government Pleader for R2 to R5

O R D E R

The relief sought for in the present writ petition is for a direction to the respondents to pay increment to the writ petitioner for the period from 01.07.2010 to 30.06.2011 with all consequential revision in pension.

2. The writ petitioner is a retired B.T.Assistant and she reached the age of superannuation on 30.06.2011 and was allowed to retire from service. The writ petitioner was initially appointed as Junior Assistant and subsequently, transferred to the School Education Department. She was promoted as Assistant and thereafter, as Superintendent. She was transferred to the fifth respondent /



School as B.T.Assistant and she joined the said School on 18.02.2011. The claim of the writ petitioner is that she is entitled for increment for the services rendered by her from 01.07.2010 to 30.06.2011. However, the writ petitioner attained the age of superannuation and retired from service on 30.06.2011. As she was not in service on 01.07.2011, no increment was sanctioned to her for the services rendered by her from 01.07.2010 to 30.06.2011. The authorities competent rejected the claim of the writ petitioner by stating that the next increment of the writ petitioner falls on 01.07.2011 and as she retired from service on 30.06.2011, she is not entitled for increment.

3. This Court is of the considered opinion that the annual increments are granted for the completion of one year of service by the employee. In the present case, the writ petitioner had completed one year of service from 01.07.2010 to 30.06.2011. Thus, the due for increment falls on 01.07.2011. As the writ petitioner was not in service on 01.07.2011, the benefit of one increment for the services already rendered by her for one year cannot be denied.

4. The similar issue was considered by this Court by order dated 16.08.2017 in W.P.No.12700 of 2016. The relevant paragraphs are extracted hereunder:

"10.The very concept of increment is that on completion of one year of satisfactory service, an employee is eligible to draw the increment. Such being the concept, the date of retirement, as stated in the counter i.e., 31.12.2014, has no nexus or object sought to be achieved. Since such a date is not contemplated in the Government Order, the statement made in the counter, cannot be considered by this Court. Accordingly, all the employees, who retired prior or after 31.12.2014, are eligible to draw their notional increment for the purpose of pensionary benefits and the disbursement of monetary benefit shall be given only with effect from 31.12.2014.

11.Thus, the writ petitioner's claim for grant of annual increments to its members/pensioners notionally with effect from the date of retirement and actual monetary benefits with effect from the date of G.O.Ms.No.311, is justifiable. Nowhere in the counter statement, more specifically in paragraph No.8, the Government did not deny the benefit to the State pensioners. Contrarily, it is stated that some officials of the Department were restricting the claim by wrongly interpreting G.O.Ms.No.311, as if it is applicable only to the employees who retired after 31.12.2014, which is

12.The purport of the G.O., is to grant



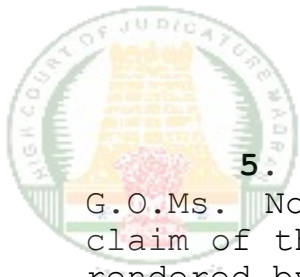
benefits in accordance with the Fundamental Rules and the Government in G.O.Ms.No.311, further issued directions to carry out necessary amendment to the Fundamental Rules in this regard. Such being the factum of the case, the claim with regard to the grant of annual increments for the retirees prior to and after G.O.Ms.No.311 dated 31.12.2014, is to be affirmed by the State.

13.The learned Special Government Pleader also fairly submitted that there is no cut-off date fixed in G.O.Ms.No.311. The Government has already extended the benefit of annual increment as interpreted by the Pay Grievance Redressal Cell and the recommendation of the Redressal Cell was also accepted by the Government and G.O.Ms.No.311 was issued. Thus, the eligibility of the writ petitioner in respect of the annual increments cannot be denied. Further, the date of retirement is not prescribed as a cut-off date in the G.O., regarding eligibility.

14.The learned Special Government Pleader further contended that based on G.O.Ms.No.311 dated 31.12.2014, the members of the writ petitioner - Association is eligible in the event of fulfilling the conditions stipulated in G.O.Ms.No.311. However, the eligibility of the respective writ petitioner is to be found based on his service records and the particulars therein.

15.In this view of the matter, the claim set out in this writ petition deserve consideration. Quashing of G.O.Ms.No.311 does not arise at all, in view of the fact that there no cut-off date is fixed in the said G.O. and only monetary benefits alone is directed to be paid prospectively, with effect from 31.12.2014, i.e. the date of the G.O.

16.Accordingly, if the members of the writ petitioner - Association falls in the category as stipulated in G.O.Ms.No.311 Finance (CMPC) Department dated 31.12.2014, he is eligible to get his annual increments, notionally with effect from the date of retirement and the monetary benefits will be granted with effect from 31.12.2014, the date of G.O.Ms.No.311 Finance (CMPC) Department. With this clarification, the respondents and the competent authorities are directed to implement G.O.Ms.No.311 Finance (CMPC) Department dated 31.12.2014, by granting the benefit of annual increments, by verifying the respective Service Records of the members of the writ petitioner - Association and pay the monetary benefits prospectively with effect from 31.12.2014."



5. In view of the fact that the Government also issued G.O.Ms. No.311, Finance (CMPC) Department, dated 31.12.2014, the claim of the writ petitioner for grant of increment for the services rendered by her from 01.07.2010 to 30.06.2011, is to be considered.

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6. In view of the facts and circumstances, the respondents are directed to grant the benefit of G.O.Ms. No.311, Finance (CMPC) Department, dated 31.12.2014, in favour of the writ petitioner and accordingly, grant the annual increment by verifying the service records of the writ petitioner and consequently, pay the monetary benefits prospectively with effect from 31.12.2014 the date on which, the Government passed an order in G.O.Ms. No.311, Finance (CMPC) Department, dated 31.12.2014.

7. With these directions, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Joint Director of School Education (Personnel),
College Road, Chennai-600 006.
2. The Chief Educational Officer,
Dindigul District,
Palani Road,
Dindigul-624 001.
3. The District Educational Officer,
Palani Educational District,
Palani, Dindigul District.
4. The Head Master,
Government High School,
Kanakkanpatti,
Palani Educational District,
Dindigul District-624 613.

+1 CC to MR.L.SHAJI CHELLAN, Advocate (SR-82596[F] dated 21/08/2019)

+1 CC to MR.P. GUNA SEKARAN, Advocate (SR-82796[F] dated 21/08/2019)

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