



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.15676 of 2016

Selvi R.Renganayagi

... Petitioner

vs.

- 1) The Director of School Education,
Chennai.
- 2) The Chief Educational Officer,
Trichy, Trichy District.
- 3) The District Educational Officer,
Trichy District.
- 4) The Accounts General (A & E),
Chennai - 600 018
- 5) The Secretary,
The High School,
Thiruvanaikoil,
Trichy District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 3rd respondent in his proceedings in Na.Ka.No.7543/A4/2013 dated 06.05.2016 and quash the same and direct the respondents to sanction the yearly increments with revised pension benefits including all consequential benefits.

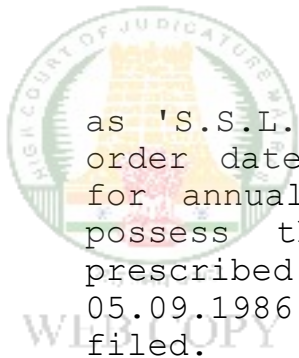
For Petitioner : Mr.V.Panneer Selvam

For RR 1 to 3 : Mr.A.Thiyagarajan,
Government Advocate

For R4 : Mr.P.Gunasekaran

O R D E R

The petitioner herein was appointed in the post of Music Teacher on 01.07.1980 in the fifth respondent School. The Government had issued G.O.Ms.No.1366, Education Department, dated 05.09.1986 prescribing the qualifications for the appointment of Music Teacher



as 'S.S.L.C. Passed'. The third respondent herein, by the impugned order dated 06.05.2016, had rejected the petitioner's eligibility for annual increment on the ground that the petitioner did not possess the minimum educational qualification of S.S.L.C. as prescribed under G.O.Ms.No.1366, Education Department, dated 05.09.1986. Challenging the same, the present writ petition has been filed.

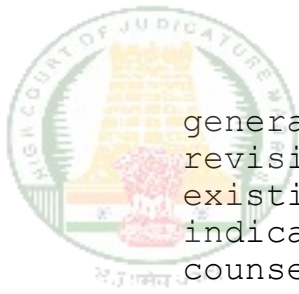
2. The learned counsel for the petitioner would submit that identically placed teachers like the petitioner herein, who were appointed along with the petitioner were extended with the benefit of annual increment and refusal of the same to the petitioner amounts to discrimination. In support of the same, he would rely upon the decisions of this Court passed in writ petitions holding that the aforesaid G.O. can only be prospective in nature.

3. The learned Government Advocate appearing on behalf of the respondents 1 to 3, by reiterating the averments in the counter affidavit submitted that, the identically placed person was a drawing master and therefore, the orders passed in his favour in that writ petition by this Court will not be applicable to the facts of the present case. He would further submit that since G.O.Ms.No.1366, Education Department dated 05.09.1986 prescribes the minimum educational qualification as S.S.L.C. and since the petitioner has not passed S.S.L.C., there is no infirmity in the impugned order.

4. The issue involved in the present writ petition is squarely covered in the decision rendered in the case of **R.Sankaran vs. the Secretary, Education Department, Government of Tamil nadu and others** reported in **2004 Writ L.R. 204** wherein, the learned Judge of this Court had held that, G.O.Ms. No.1366, Education Department, dated 05.09.1986 can only be considered as prospective in operation and will not be applicable to the persons appointed prior to the issuance of the said G.O. The relevant portion of the said order reads as follows:

"8. I have considered the submissions of both sides. It is not disputed before me that as on the date when the petitioner was appointed in the year 1974, the qualification was only a fail in SSLC. Therefore, there is no dispute over the fact that the petitioner was fully qualified when he was appointed in the permanent capacity.

9. However, the respondents seek to rely on G.O. No. 1366, by which the basic qualification was revised viz., SSLC pass. The question, therefore, arises for consideration as to whether the subsequent revision of basic qualification would affect the benefits already accrued in favour of the petitioner. Apart from that, the



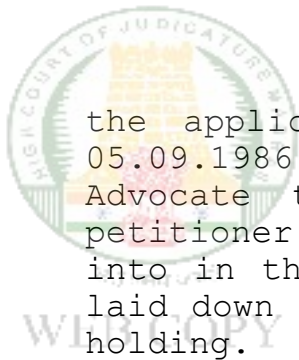
general Rule of interpretation is that any subsequent revision of qualifications cannot affect the already existing incumbents. A plain reading to the G.O. itself indicates that it is operative only prospectively. Learned counsel for the petitioner has placed before the court a copy of the letter dated 18.11.1986 of the Deputy Secretary to the Government, to the Director of Elementary Education in which the Government Order 1366 dated 5.9.1980 is extracted. Paragraph 2 of the said letter shows that the Government had directed that the Orders issued in the said G.O. in so far as the revision of scale of pay to the Craft Teachers with SSLC qualification was considered, will take effect from 1.10.1984 notionally and with monetary benefits with effect from 1.4.1986. Therefore, even on the strength of the said Government Order, the Government Order is to take effect only from 1.4.1986. In the present case, it is not disputed that the petitioner was appointed in the year 1974 and he was also conferred with the Selection Grade with effect from 1.10.1984. The Government Order which is sought in support of the impugned order, being prospective cannot affect the rights of the petitioner.

10. I also sustain the contention of the learned counsel for the petitioner that the impugned Order is also liable to be set aside on the ground of absence of show cause notice. However, having regard to the observations above even on the merits, the petitioner is entitled to succeed considering that G.O. No. 1366 Edn., dated 5.9.1986, is only prospective and not retrospective."

5. The proposition laid down in the aforesaid judgment has become final and consequently, it requires to be held that the applicability of G.O.Ms.No.1366, Education Department, dated 05.09.1986 is only prospective in nature and will not affect the teachers who were appointed prior to the issuance of the aforesaid G.O.

6. Insofar as the identically placed teacher viz. S.Rajamani is concerned, though he was serving as a drawing master, when the benefit of increment was not extended to him, he had filed a writ petition in W.P.(MD) No.12812 of 2009 and this Court by an order dated 06.04.2011 has also held that, the increments cannot be denied to him by placing reliance on G.O.Ms.No.1366, Education Department, dated 05.09.1986 since the said G.O. is only prospective. This order of the learned Single Judge dated 06.04.2011 came to be confirmed by the judgment of the Division Bench of this Court in W.A.(MD) No.1382 of 2013 dated 29.04.2015.

7. The ground on which the annual increments were extended to S.Rajamani in the aforesaid order is only on the interpretation of



the applicability of G.O.Ms.No.1366, Education Department, dated 05.09.1986 and therefore, the submission of the learned Government Advocate that Rajamani's case, will not be applicable to the petitioner's case cannot be sustained. What is required to be looked into in the case of identically placed teachers is the proposition laid down in the said judgment and not the designation which he was holding.

8. In view of this categorical pronouncement and also in view of the fact that the benefits to the petitioner were rejected on the basis of G.O.Ms.No.1366, Education Department, dated 05.09.1986, I am of the view that the petitioner is entitled to succeed.

9. In the light of the above observations, the impugned order in Na.Ka.No.7543/A4/2013, dated 06.05.2016 stands quashed. Consequently, the third respondent is directed to sanction the annual increments along with the revised pension in favour of the petitioner herein, from the date on which she would be eligible and such an exercise shall be carried out by the third respondent within a period of six(6) weeks from the date of receipt of a copy of this order. Consequently, the third respondent shall send the proposal for disbursement to the fourth respondent and on receipt of such proposal, the fourth respondent shall disburse the same atleast within a period of two(2) weeks there from. Accordingly, the Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

- 1) The Director of School Education, Chennai.
- 2) The Chief Educational Officer, Trichy, Trichy District.
- 3) The District Educational Officer, Trichy District.
- 4) The Accounts General (A & E), Chennai - 600 018

+1 CC to M/s.V.PANNEER SELVAM, Advocate (SR-103530[F]

+1 CC to M/s.P.GUNASEKARAN, Advocate (SR-103570[F])

+1 CC to M/s.SPL GP (SR-103806[F]

Order made in

W.P. (MD) No.15676 of 2016

Dated:04.12.2019

gkg (CO)

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