



WEB COPY

W.P.(MD) No.12640 of 2012 and

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P.(MD) No.12640 of 2012 and
M.P.No.1 of 2012

R.Mani

: Petitioner

Vs

1. The Government of Tamil Nadu,
Rep by its Secretary to the Government,
School Education Department,
Fort St.George,
Chennai -9.
2. The Principal Accountant General,
Tamil Nadu & Pondicherry,
Madurai Branch Office,
A.G.'s Avenue,
First Floor,
Press Colony,
Madurai - 625 007.
3. The District Elementary Educational Officer,
Government Boys Higher Secondary School Campus,
Opposite to Rathina Theatre,
Tirunelveli,
Tirunelveli District.
4. The Assistant Elementary Educational Officer,
2/38 C, Main Road,
Papakudi,
Tirunelveli District.
5. Hindu Middle School,
Harikesava Nallur,
Ambasamuthiram,
Tirunelveli District,
Rep by its Secretary.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the order of the fourth respondent dated 12.09.2012 in Na.Ka.No.781/a1/2011 and quash the same.

For Petitioner : Mr.N. Dilip Kumar

For Respondents : For R1, R3 & R4 - Mr.N.Shanmugaselvam
Additional Government Pleader
For R2 - Mr.P.Gunasekaran



O R D E R

The Writ Petitioner seeks Writ of Certiorari, calling for the records relating to the order of the fourth respondent dated 12.09.2012 in Na.Ka.No.781/a1/2011 and quash the same.

2. The brief facts that lead to the filing of the Writ petition are as follows:-

2.1. The petitioner is M.A., B.Ed., Degree holder and joined the fifth respondent aided school as a Secondary Grade Teacher on 11.03.1977. He was given selection grade on 11.03.1987 and subsequently he was also given special grade on 11.03.1997. As per G.O.Ms.No.562, one bonus increment was given to the petitioner as an incentive. Later on, the petitioner has relinquished his promotional chance, which came on 01.01.2009, due to his ill health. Now, order of recovery of the bonus increment has been passed under the impugned order dated 12.09.2012. Challenging the same, the present Writ Petition has been filed.

3. The learned counsel for the petitioner would submit that in G.O.Ms.No.562, nowhere mentions that upon subsequent relinquishment of promotion, the incentive granted earlier has to be cancelled. The learned counsel further submitted that even teachers, who were subsequently promoted after receiving bonus increment incentive, continued to enjoy the benefits and there is no rationale behind the impugned order. At the time of filing the Writ Petition, interim stay was granted and the petitioner was allowed to continue to receive bonus increment upto his retirement on 30.05.2016. To substantiate his contention, the learned counsel relied upon the order reported in ***WP No.1896 of 2006, (G.Dhandapani Vs.The Joint Director of School Education and the Chief Educational Officer.***

4. Per contra, the learned Special Government Pleader would submit that since the petitioner had relinquished his promotion, he is not entitled for bonus increment and therefore there is no need to interfere with the recovery order passed by the fourth respondent.

5. Heard the learned counsel for the petitioner as well as the Special Government Pleader for the respondents.

6. The only issue to be decided in this matter is whether the petitioner is entitled to receive bonus increment or not. A perusal of the Government Order in G.O.Ms. No.562 dated 28.09.1998 would go to show that employees stagnating in a post beyond 30 years i.e., employees stagnating in the Special Grade beyond 10 years be granted with one bonus increment as an incentive and the same was effected from 01.09.1998. Further it is to be noted that there is no mention in the above Government Order that upon



subsequent relinquishment of promotion, the incentive granted earlier has to be cancelled. Moreover, it is pertinent to note that the petitioner has also retired from his service on 30.05.2016. It is also to be noted that the teachers who had been granted bonus increment on subsequent promotion continue to draw the same benefit and therefore mere relinquishment for promotional chances will not have any effect for granting the bonus increment as an incentive. Hence, I am inclined to interfere with the impugned order passed by the fourth respondent.

7. In view of the above, the impugned order dated 12.09.2012 in Na.Ka.No.781/a1/2011 is hereby quashed and the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vrn

To

1. The Secretary to the Government,
The Government of Tamil Nadu,
School Education Department,
Fort St.George,
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2. The Principal Accountant General,
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5. Hindu Middle School,
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+1 CC to Mr.N.DILIP KUMAR, Advocate (SR-3775[F] dated 29/01/2020)
+1 CC to Mr.P.GUNASEKARAN, Advocate (SR-3933[F] dated 30/01/2020)
+1 CC to SPL.GP (SR-3886[F] dated 30/01/2020)

Order made in
W.P. (MD) No.12640 of 2012 and
M.P.No.1 of 2012
29.01.2020

MK (19.02.2020) 4P 9C