



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P (MD)No.1560 of 2015

and

M.P (MD)No.1 of 2015

WEB COPY

S.Babu

... Petitioner

vs.

1.The District Elementary School Education Officer,
The District Elementary School Education Office,
Tirunelveli District,
Tirunelveli.

2.The Additional Assistant Elementary Educational Officer,
The Additional Assistant Elementary Educational Office,
Manoor at Tirunelveli,
Tirunelveli.

3.The Head Master,
Panchayat Union Elementary School,
Manoor,
Tirunelveli District.

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the second respondent's order in Na.Ka.No.2415/Aa1/2011 dated 14.10.2011 and consequent order in A.Thi.Mu.No.496/4.1.2013 dated 11.09.2014 and quash the same and consequently direct the respondents 1 & 2 to implement the second respondent's order in Na.Ka.No.2415/Aa1/2010 dated 24.02.2011 and sanction the revised service benefits to the petitioner.

For Petitioner

: Mr.A.Haja Mohideen

For Respondents

: Mr.J.Gunaseelan Muthaiah,

Additional Government Pleader

ORDER

This Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the second respondent's order in Na.Ka.No.2415/Aa1/2011 dated 14.10.2011 and consequent order in A.Thi.Mu.No.496/4.1.2013 dated 11.09.2014 and quash the same and consequently direct the respondents 1 & 2 to implement the second respondent's order in Na.Ka.No.2415/Aa1/2010

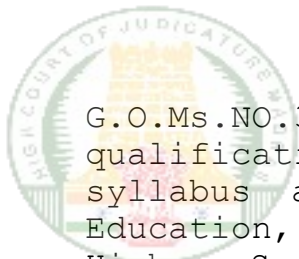


dated 24.02.2011 and sanction the revised service benefits to the petitioner.

2. The case of the petitioner is that the petitioner is working as a Secondary Grade Teacher in the third respondent School. He was appointed as Secondary Grade Teacher in the Panchayat Union Primary School at Araichipatti through Employment Exchange in the consolidated pay on 21.10.2004 with the salary of Rs.3,000/- per month. His service was regularized in the year 2006 and he was appointed as Secondary Grade Teacher in a time scale of pay at Panchayat Union School, Kuruvikulam. He had completed B.Ed., Course in the year 2008 and transferred to the present school on the same year. At the time of appointment itself, he has acquired the M.S. (Sociology) through Distance Education on May 2001. For which, he had approached the respondents for incentive increments for possessing higher educational qualification based on the Government Orders and letters. The second respondent had sanctioned one incentive increment from 27.12.2008 and passed an order on 24.02.2011 vide proceedings in Na.Ka.No.2415/Aa1/2010. The second respondent had failed to apply the guidelines of the Government orders and letters which permitted them to sanction two incentive increments and failed to implement the said orders. Subsequently, the second respondent without giving any opportunity to the petitioner, on 14.10.2011 passed an order in Na.Ka.No.2415/Aa1/2011 dated ...10.2011 and cancelled the earlier order passed. The petitioner repeatedly approached the respondents 1 & 2 and they asked him to produce the relevant Government Order to enable him to receive the said benefits. He had submitted the copy of the G.O.Ms.No.42, dated 10.01.1969. Though the respondent received the same had failed to pass any order to implement the earlier order dated 24.02.2011. Thereafter, the petitioner submitted a representation to the second respondent. The second respondent received the same, and on 11.09.2014 returned the representation vide A.Thi.Mu.No.4964.1.2013 dated 11.09.2014 by endorsing that the increment should not be sanctioned to the direct post graduate degree holder and cited a G.O.Ms.No.118, dated 10.07.2013 and no opportunity has been given to him while passing such order. He further submitted that the orders of the second respondent are non est in the eye of law and against the principles of natural justice and prayed for allowing this writ petition.

3. A counter affidavit has been filed by the first respondent denying all the averments and further stated that the petitioner was appointed as Junior Secondary Grade Teacher on consolidated pay of Rs.3000/- per month in a Panchayat Union School with effect from 21.10.2004. His services as Secondary Grade Teacher were regularized in regular time scale of pay from 1.6.2006. Without obtaining a basic bachelor degree, the petitioner obtained M.A., degree in Sociology in Open University in May 2001. He obtained B.Ed., degree on 27.12.2008 and hence, incentive increment for

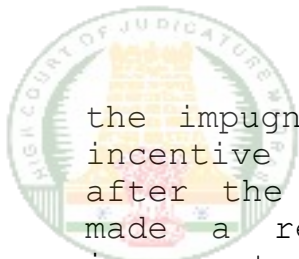
<https://hccourts.cer.in/services> as sanctioned to him from 27.12.2008. As per



G.O.Ms.NO.324 EST, dated 25.04.1995, incentive increment for higher qualification obtained in a subject available in higher secondary syllabus alone can be sanctioned. As per G.O.Ms.No.46, School Education, dated 14.05.2004, Sociology subject was deleted from the Higher Secondary syllabus from 2003-2004. Without considering these, incentive increment for M.A.Sociology was sanctioned from 17.12.2008 to the petitioner by the second respondent in his proceedings Na.Ka.No.1415 Aal/2001 dated 23.02.2011 by mistake. Later, the above mistake was found out and therefore, the second respondent in his proceedings Na.Ka.No.1415 Aal/2011 dated 14.10.2011 cancelled his earlier sanction order in na.Ka.No.1451/Aal/2011 dated 23.02.2011. The petitioner repeatedly requested the respondents to sanction incentive increment for his M.A.Sociology. The second respondent in his A.Thi.Mu.No.496/Aal/2013 dated 11.09.2014 informed the petitioner that as per G.O.Ms.No.118, School Education dated 10.07.2013, incentive increment for direct M.A., without passing basic qualification of Bachelor degree is not eligible for availing the same. Aggrieved by the proceedings of the second respondent dated 14.10.2011, the petitioner has filed this writ petition. There is no merit in challenging the impugned proceedings dated 14.10.2011 and consequent intimation about the cancellation of wrong sanction of incentive increment as per A.Thi.Mu.No.496, dated 04.01.2013 and hence this writ petition is liable to be dismissed.

4. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

5. On going through the said G.O.Ms.No.118, dated 10.07.2013 it is clear that the petitioner like similarly placed persons, who have not completed three years degree course directly obtained M.A., degree are not entitled to claim incentive increment. Originally, as per G.O.Ms.No.324, Education Science and Technology Department, dated 25.04.1995 incentive increments are admissible for higher qualification of M.A., or M.Sc., only in the subjects that are available in the Higher Secondary Course. Sociology subject was deleted from the Higher Secondary Syllabus from the academic year 2003-2004 as per G.O.Ms.No.46, School Education, dated 14.05.2004. The petitioner is eligible for one incentive increment from the date of he obtaining B.Ed., degree which was on 27.12.2008 and he is not eligible for incentive increment for obtaining M.A.Sociology degree. The second respondent wrongly sanctioned the incentive increment from 27.12.2008 for M.A., Sociology and the same was rectified by the second respondent in Na.Ka.No.1451/Aal/2011, dated 23.02.2011 by cancelling his earlier order dated 14.10.2011. The inadmissible benefit was wrongly sanctioned to the petitioner due to misrepresentation of the petitioner against G.O.Ms.No.324 EST dated 25.04.1995 without considering the G.O.Ms.No.46, School Education, dated 14.05.2004 and hence to rectify the irregularity and to cancel



the impugned order is passed. Despite of his non eligibility for incentive increment for M.A.Sociology, the petitioner three years after the cancellation of illegal incentive increment, had again made a representation in November 2014 to sanction incentive increment for his M.A.Sociology degree. His representation was again considered and found that the petitioner without obtaining first Bachelor degree appeared directly for M.A.degree and obtained M.A.Sociology degree through Distance Open University Education on May 2001 without having an basic bachelor degree. The concession of incentive increment granted in G.O.Ms.No.307, School Education, dated 15.12.2000 for direct M.A., without passing basic Bachelor degree was duly cancelled as per G.O.Ms.No.118, School Education, dated 11.07.2013. Therefore, the petitioner was not eligible to get incentive increment for direct M.A.,degree in sociology as per the said G.O.Ms.No.118.

6. The petitioner's contention that his request should be considered and he has to be awarded incentive increment for obtaining of M.A.,Sociology degree is not legal and he is not entitled for the same as per G.O.Ms.No.118, School Education, dated 11.07.2013. The said Government Order G.O.Ms.No.118, School Education, dated 11.07.2013 has not been challenged by the petitioner. When the petitioner is not entitled for incentive increment for M.A.Sociology as per the said G.O.Ms.No.118, School Education, dated 11.07.2013 the request for setting aside the impugned order is hereby rejected.

7. In view of the observations made above, the writ petition fails and stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

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/ /2020

Sub Assistant Registrar(CS)

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To

1. The District Elementary School Education Officer,
The District Elementary School Education Office,
Tirunelveli District,
Tirunelveli.

2.The Additional Assistant Elementary Educational Officer,
The Additional Assistant Elementary Educational Office,
Manoor at Tirunelveli,



3. The Head Master,
Panchayat Union Elementary School,
Manoor,
Tirunelveli District.

+1 CC to Mr.A.HAJAMOHIDEEN, Advocate (SR-12568[F]dated 19/03/2020)
+1 CC to SPL.GP (SR-12669[F] dated 20/03/2020)

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