



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P. (MD) No.189 of 2011

and

M.P. (MD) No.1 of 2011

WEB COPY

P.Karuppannan

... Petitioner

versus

1. Chief Educational Officer,
Virudhunagar.

2. District Educational Officer,
Aruppukottai,
Virudhunagar,
Virudhunagar District.

3. Correspondent,
MNMSPS Higher Secondary School,
Mallankinar - 626 109.
Virudhunagar District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 2nd respondent in Na.Ka.No.8407/Aa3/2010 dated 03.12.2010 and quash the same and direct the 2nd respondent to sanction one set of incentive increment for Ph.D. for the petitioner, from the date on which he acquired Ph.D. Qualification, i.e., 1997 and confer all the consequential benefits.

For Petitioner : Mr.V.Panneerselvam,
for M/s.C.S.Associates

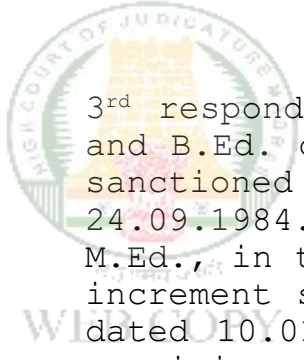
For Respondents : Mrs.S.Srimathy, Spl. GP

ORDER

This writ petition has been filed by the petitioner, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 2nd respondent in Na.Ka.No.8407/Aa3/2010 dated 03.12.2010 and quash the same and direct the 2nd respondent to sanction one set of incentive increment for Ph.D. for the petitioner, from the date on which, he acquired Ph.D. Qualification, i.e., 1997 and confer all the consequential benefits.

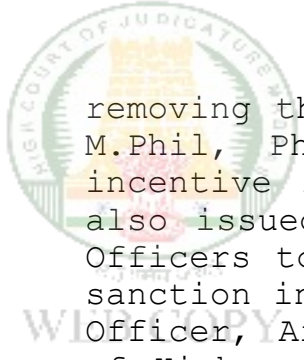
2. The petitioner joined as Secondary Grade Teacher in the

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3rd respondent School on 01.07.1965 with the qualification of M.A. and B.Ed. degrees, for which, two sets of incentive increments were sanctioned to him. Thereafter, he was promoted as P.G. Assistant on 24.09.1984. While he was working as P.G. Assistant, he acquired M.Ed., in the year 1989. According to the petitioner, the incentive increment scheme was originally in force by G.O.Ms.No.42 Education, dated 10.01.1969 conferring the benefit of incentive increment for acquiring higher qualification for those teachers working in Middle/High Schools which are coming under the Educational Subordinate Services. At that time, there was no Higher Secondary system or PG Assistant Post because it was introduced only from 01.07.1978. Therefore, the association of P.G. Assistants made representations to the Government to consider them for conferring on them the benefit of incentive increment, on par with that of the teachers working in the High Schools. Accepting the said representation, Government issued orders in G.O.Ms.No.747, Finance, dated 18.08.1986 sanctioning incentive increment for M.Ed. Degree holders, because, M.Ed. is a higher qualification, inasmuch as the minimum required qualification for PG Assistant is P.G. Degree and B.Ed.. The petitioner, being a PG Assistant, applied for the same, but, the same was rejected on the ground that the Government issued G.O.Ms.No.1024, Education, dated 09.12.1993 fixing maximum number of incentive increments as 2 sets i.e., 4 incentive increments. Challenging the same, he filed a writ petition in W.P. No.1944 of 1998, which was allowed by this Court, against which, the Government filed an appeal in W.A.No.1156 of 1999 and that was also dismissed on 20.06.2006. Thereafter, a Special Leave Petition was filed which was also dismissed. Thereafter, the Government implemented the same and sanctioned incentive increment for M.Ed., by issuing G.O.Ms.No.17, School Education dated 08.01.2008.

3. In the meanwhile, the Association made further representation that when the teachers working in High Schools are enabled to get two sets of incentive increment for higher qualification, the teachers working in the Higher Secondary Schools are restricted to only one incentive increment, i.e., M.Ed. only and they requested to consider for sanction of one more set of incentive increment on par with the teachers working in High Schools and Government considered and issued G.O.Ms.No.1170, Education, dated 20.12.1993, sanctioning one more set of incentive increment for acquiring higher qualification of M.Phil/Ph.D./P.G.Diploma in English, but, fixed a cut-off date as 01.03.1993, i.e., the persons, who acquired those qualifications before 01.03.1993 alone are eligible. Again the said Government order came to be challenged in the High Court on the ground of discrimination, because those who acquired M.Phil, Ph.D., P.G. Diploma in English before 01.03.1993 were given and others were not, which amounts to discrimination. The challenge was only insofar as fixing the cut-off date. On the ground of discrimination, this Court allowed the writ petition and struck down the cut off date alone. Pursuant to the same, the Government issued G.O.Ms.No.194, Education, dated 10.10.2006



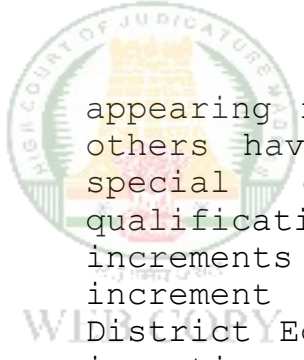
removing the cut-off date and enabled all the persons, who acquired M.Phil, Ph.D., P.G. Diploma in English to get the 2nd set of incentive increment. Based on the Government Order, the Director also issued Circular dated 12.12.2006 directing the District Level Officers to instruct the Headmasters of Higher Secondary Schools to sanction incentive increment. Accordingly, the District Educational Officer, Arupukottai issued order on 20.02.2007 to the Headmasters of Higher Secondary School. The petitioner reached superannuation on 31.05.2002.

4. According to the petitioner, while he was working as P.G. Assistant, he acquired Ph.D. in the year 1997 itself. Since he retired from service, he did not know about the order passed by the Director and the consequential order of the District Educational Officer. Thereafter, he made a representation to sanction incentive increment for Ph.D., but, there was no response. Hence, he made another representation to the Collector on the Grievance Day, which was forwarded to the District Educational Officer, but, there was no response. Thereafter, he was informed that he has to make application to the Management. The claim made by him for M.Ed., in 1998 reached finality and sanction was accorded only on 08.01.2008. Though the Government issued orders, the 2nd respondent did not take any steps. The second respondent informed the petitioner that he should make representation through proper channel. Hence, he made a representation to the 3rd respondent on 22.03.2010 and after repeated communications, the 3rd respondent forwarded the same to the 2nd respondent, who rejected the same on 03.12.2010. Challenging the same, the present writ petition has been filed.

5. The learned counsel appearing for the petitioner submitted that initially, the petitioner was granted two incentive increments for acquiring higher qualifications of M.A., B.Ed, degrees, while he was working as Second Grade Teacher and, thereafter, for acquiring M.Ed. Degree in the year 1989, he was granted another set of increment in the post of PG Assistant. He acquired Ph.D. in the year 1997 itself and as per G.O.Ms.No.194, Education, dated 10.10.2006, the petitioner is entitled for incentive increment for acquiring Ph.D. Degree, however, the same was not granted. Despite several representations, he was not granted any incentive increment for acquiring Ph.D. Degree. Therefore, the present writ petition has been filed.

6. It is the contention of the learned counsel appearing for the petitioner that though the petitioner claimed for incentive increment for acquiring M.Ed Degree in the year 1998, sanction was accorded only on 08.01.2008. Though the petitioner retired from service on 31.05.2002, he is entitled for incentive increment for acquiring Ph.D. Degree in the year 1997, as per G.O.Ms.No.194, dated 10.10.2006. Therefore, he prayed for allowing this writ petition.

<https://hcservices.ecourts.gov.in/hcservices/> contra, the learned Special Government Pleader



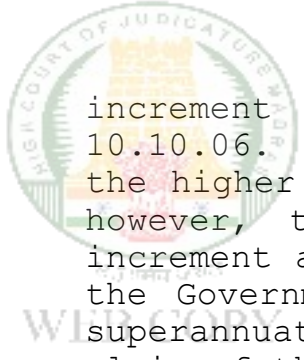
appearing for the respondents submitted that the petitioner and 18 others have already been granted third incentive increment as a special case for holding additional higher educational qualifications, and in all, he has received three incentive increments and there is no provision to grant fourth incentive increment as per G.O.Ms.No.1024, dated 09.12.1993. Hence, the District Educational Officer, Aruppukottai, refused to give fourth incentive increment to the petitioner, vide his proceedings, dated 03.12.2010. Now, the petitioner has filed the present writ petition claiming fourth incentive increments, which is unsustainable in law.

8. Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

9. Admittedly, the facts in the present case are not in dispute. Originally, the petitioner joined as Secondary Grade Teacher in the year 1965 and in possession of M.A. B.Ed. Degree, he was granted two incentive increments. Thereafter, he was granted third incentive increment for acquiring M.Ed. Degree while he was working as P.G. Assistant. The petitioner superannuated on 31.05.2002. In the year 2006, the Government issued G.O.Ms.No.194, dated 10.10.2006, granting two sets of incentive increment for the persons, who acquired M.Phil., Ph.D., and P.G.Diploma in English. Based on that G.O., the petitioner claims that he had acquired Ph.D. Degree in the year 1997 and, therefore, he is entitled for another set of incentive increment. In this regard, he repeatedly made several representation after his retirement for claiming fourth incentive increment.

10. It is seen that there was no provision for grant of 4th incentive increment, while the petitioner was in service. The Government Order granting 4th incentive increment came to be passed only in the year 2006, much after the date of superannuation of the petitioner. It is not disputed that the petitioner was granted the third incentive increment only in the year 2008, after his superannuation. The present petition has been filed only in the year 2011, after a lapse of nine years from the date of his retirement claiming the 4th incentive increment. Though the petitioner claims that he was not aware of the Government granting the 4th incentive increment, mere ignorance of the petitioner as to the increment being offered by the government would not be a ground to award the increment to the petitioner. The petitioner, except for claiming ignorance, has not placed any reason to justify the delay in approaching the Court claiming the fourth incentive increment and the delay is definitely fatal to the case of the petitioner.

11. Further, on the date when the petitioner retired from service, the scheme of 4th incentive increment was not in vogue and the Government had issued the order granting the 4th incentive



increment only in the year 2006, vide G.O. Ms. No.194 dated 10.10.06. Though the petitioner claims that he was in possession of the higher qualification earlier in point of time in the year 1997, however, there being no scheme in place for the 4th incentive increment and the said scheme was extended only in the year 2006 by the Government, the petitioner cannot claim the benefit, post his superannuation, which was way back in the year 2002. Therefore, the claim of the petitioner for grant of 4th incentive increment has been rightly rejected, which does not warrant any interference at the hands of this Court.

12. For the reasons aforesaid, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

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/ /2021

Sub Assistant Registrar(CS)

To

- 1.The Chief Educational Officer,
Virudhunagar.
- 2.The District Educational Officer,
Aruppukottai,
Virudhunagar,
Virudhunagar District.

W.P. (MD) No.189 of 2011

12.02.2021

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