



WEB COPY

W.P.(MD) No.15593 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD) No.15593 of 2017

and

W.M.P. (MD) No.12315 of 2017

1.G.Jeyarani
2.K.Gunaseeli
3.T.Rajamkanibai

... Petitioners

vs.

1.The Secretary to Government of Tamilnadu
Finance (Pay Cell) Department,
St. George Fort, Chennai.

2.The District Elementary Educational Officer,
Thoothukudi District.

3.The Assistant Elementary Educational Officer,
Thoothukudi District.

4.The Secretary,
CM Primary School,
Renganathapuram,
Thoothukudi.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the impugned order passed in O.Mu.No.2744/A2/2016 dated 07.09.2016 on the file of the second respondent and the consequent impugned order in Na.Ka.No.837/A2/2017 dated 14.03.2017 on the file of the second respondent and quash the same and further to direct the second respondent to sanction bonus increment to the Petitioners as per GO.Ms.No.562, Finance (Pay Cell) Department dated 28.10.1998 and pay the consequential arrears to the petitioner.

For Petitioner : Mr.G.Prabhu Rajadurai

For R1 to R3 : Mr.M.Linga Durai
Government Advocate

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned orders passed by the second respondent, dated 07.09.2016 and 14.03.2017 and to direct the

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second respondent to sanction bonus increment as per G.O.Ms.No.562 Finance (Pay Cell) Department, dated 28.10.1998.

2.Heard Mr.G.Prabhu Rajadurai, learned Counsel for the petitioner and Mr.M.Linga Durai, learned Government Advocate appearing for the respondents 1 to 3.

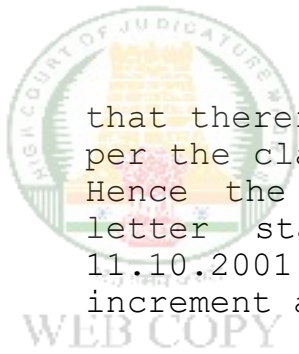
3.All the petitioners were appointed as Secondary Grade Teacher in the fourth respondent School between 1975 and 1979. It is also not in dispute that the petitioners have rendered their service without any blemish. All the petitioners were conferred with selection grade and special grade of pay in the year 1987 and 1997, respectively, after the completion of 10 years and 20 years of service. It is the case of petitioners that the fourth respondent School promoted one V.Sornam, as Headmistress of the said School. Since the promotion was based on suitability and seniority, the management chose to appoint an individual over looking 10 Secondary Grade Teachers, who were seniors to the person, who was appointed as Headmistress. It is at that time, it is stated that the fourth respondent, in order to get no objection from the petitioners, obtained letters from the petitioners to the effect that they relinquished their right for promotion and made entries in the service records.

4.The petitioners have completed 30 years of service in the year 2007, 2009 and 2005 respectively. The first respondent vide G.O.Ms.No.562, Finance (Pay Cell) Department, dated 28.10.1998, granted one increment, known as stagnation increment or bonus increment for those who completed 30 years of service. Based on G.O.Ms.No.562, dated 28.10.1998, the petitioners made representation to the fourth respondent to send proposals to the Government for grant of bonus increment. In the meanwhile, all the petitioners retired from service after attaining the age of superannuation. It is the case of petitioners that they have repeatedly approached the respondents for grant of bonus increment even after their retirement. However, by the impugned orders, dated 07.09.2016 and 14.03.2017, the petitioners' representation for bonus increment was rejected only on the ground that the petitioners have already relinquished their rights for promotion. Aggrieved by the same, the above Writ Petition is filed.

5.Even in the counter affidavit, the same reason for rejecting the representation is reiterated. It is stated further that by a Government Letter, dated 11.10.2001, the position was clarified that bonus increment is not payable to those who have relinquished their rights for promotion and that while in service, the petitioners have relinquished their rights for promotion in the year 2001.

6.The learned Government Advocate appearing for the official respondents relying upon the counter affidavit submitted that the

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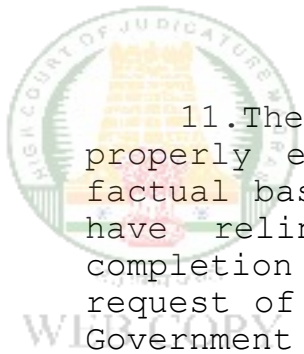
that therefore, they are not eligible to get the bonus increment, as per the clarification letter issued by the Government on 11.10.2001. Hence the issue before this Court is whether the clarification letter stated to have been issued by the Government, dated 11.10.2001 would deprive the petitioner's right to claim bonus increment after completion of 30 years of service.

7.This Court considered the submissions of the learned Counsel appearing for the petitioner as well as the learned Government Advocate appearing for the official respondents.

8.There is no dispute with regard to the entitlement of petitioners to claim bonus increment after completion of 30 years of service. The object behind grant of selection grade, special grade and bonus increment or to give some monetary benefits to the teachers for stagnating in the same post beyond the period of 10 years. The clarification letter of Government, dated 11.10.2001, is not produced before this Court by the learned Government Advocate. However, this Court presume the existence of such letter. If bonus increment for completion of certain years of service is awarded uniformly to all, the petitioners are also entitled to get bonus increment after completion of 30 years of service. In this case, it is stated by the petitioners that they were compelled to give some letter by the management to accommodate their chosen person to be appointed as Headmistress, who is junior to them.

9.The specific averments made by the petitioners are not specifically denied in the counter affidavit. Hence, this Court is of the view that the petitioners' entitlement to get the bonus increment cannot be denied on the basis of their letter of relinquishment to enable the management to appoint their chosen person as Headmistress of the School. Even otherwise, the Government letter No.168, dated 11.10.2001, cannot be valid, if it is issued with an intention to defeat the very object of the Government order in G.O.Ms.No.562, dated 28.10.1998. In other words, all the petitioners even if they have relinquished their rights for promotion, their intention would never be to refuse to accept bonus increment after completion of 30 years of service.

10.The letter of clarification, dated 11.10.2001, is not one that was issued prior to the date of petitioners letter relinquishing their rights for promotion. The respondents cannot rely upon a clarification letter to deny the benefit of bonus increment to the petitioners without showing that the petitioners have relinquished their rights for promotion knowing fully well that they will not be given bonus increment, if they give the letter of relinquishment for promotion. It will be arbitrary and unethical to deny the benefit of bonus increment to the petitioners after completion of 30 years on the basis of a clarification letter, which was never informed to the petitioners at the time of sending the



11.The official respondents in their counter affidavit did not properly explain the dates and events. In the absence of any factual basis, this Court is unable to presume that the petitioners have relinquished their rights to get bonus increment after completion of 30 years. Hence, the impugned order rejecting the request of the petitioners to grant bonus increment on the basis of Government letter, dated 11.10.2001, cannot be sustained.

12.As a result, this Writ Petition is allowed and the impugned orders passed by the second respondent, dated 07.09.2016 and 14.03.2017, are quashed and the second respondent is directed to sanction bonus increment to the petitioners as per G.O.Ms.No.562, Finance (Pay Cell), dated 28.10.1998, and pay the consequential arrears of pay and revise the pensionary benefits to the petitioners within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

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/ /2021

Sub Assistant Registrar(CS)

tmg/cmr

To

1.The Secretary to Government of Tamilnadu
Finance (Pay Cell) Department,
St. George Fort, Chennai.

2.The District Elementary Educational Officer,
Thoothukudi District.

3.The Assistant Elementary Educational Officer,
Thoothukudi District.

4.The Secretary,
CM Primary School,
Renganathapuram,Thoothukudi.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate(SR-29296[F dated 16/09/2021])

+1 CC to M/s.SPL. GP (SR-29450[F] dated 17/09/2021)

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