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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 5755 of 2019

A.P.Mahabharathi

...Petitioner

-vs-

1. The Secretary to Government (Expenditure),
Finance (T & A-1) Department,
Fort St. George,
Chennai - 600 009.

2. The Commissioner/Principal Secretary,
Treasuries & Accounts,
Amma Valagam, No. 571, Anna Salai,
Nandanam,
Chennai - 600 035.

...Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent in connection with the impugned order passed by him in Letter No. 26417/T&A-1/2016 dated 07.09.2017 and quash the same and direct the Respondents to grant two advance increments to the Petitioner for having acquired MBA degree from the date of acquisition of the degree with all monetary benefits as ordered in W.P. No. 18674 of 2011 dated 23.07.2013 within a reasonable time and grant such other further relief as this Court may deem fit.

For Petitioner : Mr. K.Venkatramani, Senior Counsel
for Mr. M.Muthappan

For Respondents: Mrs. C.Sangamithirai,
Special Government Pleader

O R D E R

Heard Mr. K.Venkatramani, Learned Senior Counsel appearing for the Petitioner and Mrs. C.Sangamithirai, Learned Special Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

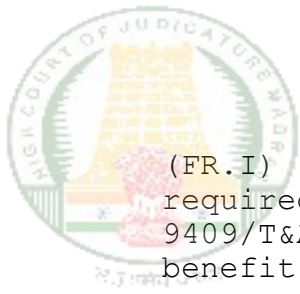
2. The Petitioner, who is in the services of the Government of Tamil Nadu, had completed his Post Graduate degree in Business Administration and International Business in June 2007 in Pondicherry Central University and in terms of



G.O. Ms. No. 825, Personnel and Administrative Reforms (FR.I) Department dated 06.07.1977 had made a representation dated 12.12.2007 requesting sanction of two advance increments for such management qualification that he had obtained. The Joint Secretary to Government, Finance (T & AI) Department by Letter No. 9409/T&AI/2008-1 dated 14.08.2008 addressed to the Director of Treasuries and Accounts with a copy to the Petitioner informed that the issue of sanctioning advance increments for having obtained M.B.A. degree by the official in the Department under the administrative control of the Finance Department is under examination and decision on his request could be taken after a final decision is arrived on the above proposal and requested the Petitioner to renew the proposal after orders are passed in that regard. However, the Government of Tamil Nadu by G.O. (Ms) No. 154, Personnel and Administrative Reform (FR-IV) Department dated 26.10.2010 cancelled G.O. Ms. No. 825, Personnel and Administrative Reforms (FR.I) Department dated 06.07.1977 with effect from the date of issue of that order. Thereafter, one A.Subramani, who had acquired M.B.A. degree in the year 2009 and had made request for advance increments based on G.O. Ms. No. 825, Personnel and Administrative Reforms (FR.I) Department dated 06.07.1977, but was rejected by Letter No. S (1)/4643/2009 dated 16.03.2011 quoting its withdrawal by subsequent G.O. (Ms) No. 154, Personnel and Administrative Reform (FR-IV) Department dated 26.10.2010, which had been challenged in W.P. No. 18674 of 2011 and this Court in the order passed on 23.07.2013 held that G.O. (Ms) No. 154, Personnel and Administrative Reform (FR-IV) Department dated 26.10.2010 cannot take away the accrued right of a person who had acquired M.B.A. degree prior to the said Governmental Order and the said cancellation of the benefit could only operate prospectively. The Petitioner then made another representation dated 23.03.2016 referring to the said decision and the order dated 17.11.2015 in W.P. No. 36290 of 2015 passed in respect of another similarly placed person for extending the same benefit, but it was rejected by Letter No. 26417/T&A-1/ 2019 dated 07.09.2017 passed by the Secretary to Government, Finance (T&A-I) Department by merely quoting G.O. (Ms) No. 154, Personnel and Administrative Reform (FR-IV) Department dated 26.10.2010 where the scheme of sanction of two advance increments was dispensed with from the year 2010. Aggrieved thereby, the Petitioner has filed this Writ Petition.

3. The Respondents have filed Counter-Affidavit dated 10.10.2019 reiterating the same contentions as in the impugned order.

4. Learned Senior Counsel appearing for the Petitioner contends that the Petitioner, who had acquired M.B.A. degree in June 2007 and had made a representation dated 12.12.2007 for grant of benefit in terms of Governmental Order in terms of G.O. Ms. No. 825, Personnel and Administrative Reforms



(FR.I) Department dated 06.07.1977 then in force and had been required to await the decision of the Government by Letter No. 9409/T&AI/2008-1 dated 14.08.2008, cannot be denied the said benefit by quoting the withdrawal order which has only prospective effect, especially when the decisions of this Court referred supra have already clarified the said legal position.

5. There is substantial force in the said submissions made by Learned Senior Counsel appearing for the Petitioner, which deserve acceptance. As already noticed in the earlier orders passed by the Court, persons like the Petitioner who had already acquired M.B.A. degree and had made representation for granting the advance benefits in terms of G.O. Ms. No. 825, Personnel and Administrative Reforms (FR.I) Department dated 06.07.1977 cannot be denied of its benefits by citing G.O. (Ms) No. 154, Personnel and Administrative Reform (FR-IV) Department dated 26.10.2010 which has withdrawn those benefits with prospective effect from that date. In that view of the matter, the impugned order in Letter No. 26417/T&A-1/ 2019 dated 07.09.2017 passed by the Secretary to Government, Finance (T&A-I) Department, which cannot be sustained, is quashed and the Respondents shall grant two advance increments from the date of acquiring higher degree by the Petitioner as sought in his representation dated 12.12.2007 along with a working-sheet showing the calculation for the same and file report of compliance by 31.07.2022 before the Registrar (Judicial) of this Court in that regard.

In the result, the Writ Petition is ordered on the aforesaid terms. No costs.

s/d-
Assistant Registrar(CO)

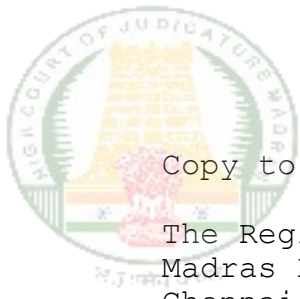
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Sub-Assistant Registrar

skr

To

1. The Secretary to Government (Expenditure),
Finance (T & A-1) Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner/Principal Secretary,
Treasuries & Accounts,
Amma Valagam, No. 571, Anna Salai,
Nandanam,
Chennai - 600 035.



Copy to

The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.

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+1cc to Government Pleader, Sr.No.27330

W.P. No. 5755 of 2019

CA(CO)
KKV/17/05/2022