



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.13082 of 2020
AND
WMP NO.16209 OF 2020

S.Manjula

...Petitioner

Vs

- 1.The Additional Chief Secretary,
Home (Court-V) Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai-600 009.
- 2.The Registrar (District Judiciary),
High Court of Madras,
Chennai-600 104.

...Respondents

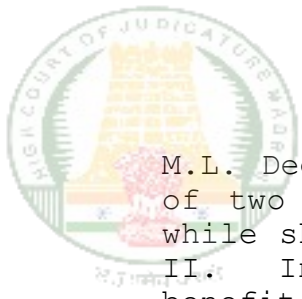
Prayer : Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records relating to the impugned proceedings issued by the second respondent in Roc.No.40826/2020/B.1 dated 03.09.2020 and to quash the same and consequently directing the respondents to sanction advance increments to the petitioner for having acquired M.L. degree qualification from the date of appointment as per G.O.Ms.No.324 Home (Courts-I) Department, dated 11.05.2018.

For the Petitioner	:	Mr.G.Sankaran
For the Respondents	:	Mrs.E.Renganayaki
		Addl. Government Pleader
		for respondent No.1
	:	Mr.Bharathkumar
		for Mr.E.K.Kumaresan
		for respondent No.2

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

By this writ petition, a challenge is made to the order dated 03.09.2020, whereby the petitioner was denied the benefit of advance increments despite possessing the qualification of



M.L. Degree. It has been denied on the ground that the benefit of two advance increments was given to the petitioner earlier while she was working as the Assistant Public Prosecutor, Grade-II. In view of the above, she is not entitled to the same benefit once again.

2. Learned counsel for the petitioner submitted that the order impugned has been passed ignoring the Government Order dated 11.05.2018, which provides for one more increment to the Judicial Officers possessing M.L./L.L.M. Degree in addition to the two increments already sanctioned in the Government Order dated 15.12.1982. The petitioner is claiming the benefit of advance increments for the first time after entering into the judicial service. Earlier, the benefit of two advance increments was extended while she was working as the Assistant Public Prosecutor, Grade-II. She was, thereafter, selected and appointed to the post of Civil Judge without the protection of pay and, therefore, for her, the benefit would be for the first time and is not affected by the Government Orders, rather, the same is permissible. The State Government, in their reply, has taken a positive stand. In view of the above, a prayer is made to allow the writ petition to extend the benefit as claimed by her and at the same time, to set aside the order impugned herein.

3. Learned Special Government Pleader appearing for the first respondent submitted a detailed counter to the writ petition and stated that as per the Government Order, it is permissible to extend the benefit of three advance increments. The petitioner was earlier extended the benefit of incentive increments, while she was in a different service i.e. the Assistant Public Prosecutor, Grade-II and it is not a case of promotion.

4. Learned counsel for the second respondent has contested the writ petition. He submitted that as per the Government Order 11.05.2018, three advance increments are permissible to those who obtained the Degree of M.L. The benefit of advance increments can be sanctioned only once and not admissible at the stage of promotion and, accordingly, when the petitioner was extended the benefit of incentive increments while working as the Assistant Public Prosecutor, Grade-II, she would not be entitled to the same benefit while joining in the judicial service and, therefore, her claim was rightly rejected by the second respondent.

5. We have considered the rival submissions and also perused the materials available on record.

6. It is not in dispute that as per the Government Order dated 11.05.2018, an employee is entitled to the benefit of three increments on the possession of the qualification of M.L. Degree. The benefit is to be extended subject to the conditions



given therein i.e. once the benefit is extended, it would not be admissible again on promotion. The issue is as to whether it is a case of promotion so as to deny the benefit of three advance increments to the petitioner.

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7. It is not in dispute that it is not the case of promotion, rather direct recruitment to judicial service after working on the post of Assistant Public Prosecutor, Grade-II. Since the petitioner joined a new assignment, she would be entitled to the benefit of Government Order dated 11.05.2018. It is not that the petitioner was taken into judicial service with protection of pay. In view of the above, we find the impugned order dated 3.9.2020 to be illegal, going contrary to the Government Orders dated 15.12.1982 and 11.05.2018. Since the case of the petitioner is not of promotion, she is entitled to the benefit of three advance increments for the qualification obtained by her. Even as per the counter filed by the second respondent, denial of the benefit of three advance increments on obtaining or possessing qualification of M.L. Degree can be made if it is a case of promotion and not in a case where the candidate is given fresh appointment after his recruitment.

8. In the light of the aforesaid, we set aside the order of the second respondent and direct the respondents to extend the benefit of three advance increments to the petitioner with all consequential benefits. The compliance would be made within a period of three months from the date of receipt of a copy of this order. There will be no order as to costs. Consequently, W.M.P.No.16209 of 2020 is closed.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

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To:

1.The Additional Chief Secretary,
Home (Court-V) Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai-600 009.

2.The Registrar (District Judiciary),
High Court of Madras, Chennai-600 104.

+1cc to Mr.G.Sankaran, Advocate, Sr.No.21553
+1cc to the Government Pleader, Sr.No.21818

W.P.No.13082 of 2020

GMR(CO)

RVM(06/04/2022)