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W.P.(MD)No.15776 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2022

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THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P. (MD)No.15776 of 2015

and

M.P. (MD)No.1 of 2015

P.Pandi

... Petitioner

vs.

1.The State of Tamil Nadu,
represented by its Secretary,
Department of School Education,
Fort St. George, Chennai - 600 009.

2.The Director of Elementary Education,
College Road, Chennai - 600 006.

3.The District Elementary Educational Officer,
Virudhunagar, Virudhunagar District.

4.The Additional Assistant Elementary
Educational Officer,
Thiruchuli @ M.Rettiapatti,
Virudhunagar District.

... 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 impugned proceedings issued by the 4th respondent Additional Assistant Elementary Educational officer in A.thi.Mu.No.771/A/2015, dated 19.02.2015, to quash the same and further to direct the 3rd respondent DEEO and the 4th respondent AAEO to sanction and disburse forthwith the incentive increment (Two advance increments) for the M.Com Degree admissible to the petitioner.

For Petitioner : Mr.Muthuvel
for M/s.Isaac Chambers

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate (Civil side)

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned proceedings issued by the 4th respondent Additional Assistant Elementary Educational officer in A.thi.Mu.No.771/A/2015, dated 19.02.2015 and further to direct the 3rd respondent DEEO and the 4th respondent AAEO to



sanction and disburse forthwith the incentive increment (Two advance increments) for the M.Com Degree admissible to the petitioner.

2. The brief facts of the case are that the petitioner was working as a Secondary Grade Teacher in Panchayat Union Primary School. The petitioner is possessing Diploma in Teacher Education (D.T.Ed.), B.Lit., B.Com., M.Com., and B.Ed. The Secondary Grade Teachers are eligible for possessing B.Ed., degrees and in addition to the B.Ed., they are eligible for M.A., M.Sc., or M.Ed., degrees. The petitioner was granted advance increment for B.Ed., degree in June 2012. The petitioner submitted a representation, dated 08.07.2014, to grant incentive increment for M.Com., degree. The same was declined through the impugned order, dated 19.02.2015. The petitioner relied on G.O.Ms.No.324, (Education, Science and Technology Department (E2)), dated 25.04.2005, wherein, it has been stated that the candidates would be eligible for incentive increments if the subject in the Higher Secondary syllabus are available.

3. The respondents have filed a counter affidavit stating that in G.O.Ms.No.42, (Education), dated 10.01.1969, the candidates who are having D.T.Ed. would be eligible for B.Lit., and B.Ed. Thereafter, for M.A., M.Sc., and M.Ed. The subsequent G.O. issued in G.O.Ms.No.1032, dated 22.06.1971, it has been clarified that the first incentive increment for the Secondary Grade Teachers could be only for B.A., B.Sc., and the consequent incentive increment will be granted for M.A., M.Sc., or M.Ed., and in both the Government Orders it has not been stated that M.Com., or B.Com., are eligible for incentive increments. The said G.O.324, is not applicable to the present case because, in the said G.O., it speaks about the incentive increments for the physical education teachers and the Higher Secondary Teachers.

4. Heard Mr.Muthuvel, learned Counsel appearing for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the respondents.

5. The petitioner relied on the order of this Court in W.P.(MD) No.4774 of 2008, wherein, this Court, vide order, dated 29.03.2016, has held that G.O.324 has held for sanction on incentive increments for the subjects in Higher Secondary Standard syllabus shall be relevant. It is an admitted fact that the petitioner has passed M.Com., degree. It is also equally admitted fact that subject Commerce is one of the subject in the Higher Secondary School and therefore, the candidates possessing M.Com., is also eligible.



6. The Government Advocate submitted that the said G.O. cannot be construed as applicable to Secondary Grade Teachers since the G.O.Ms.No.42 and G.O.Ms.No.1032 has clarified and in the said clarification M.Com., or B.Com. are not available.

7. On perusing the said G.O.s, it is seen that the incentive increments are granted to the Teachers in order to encourage the teachers to qualify themselves for higher education, in turn the same would be benefited to the students. If the Teacher is qualified, then the Teacher would impart better education to the students. If that is so, the Teacher who is qualified in Commerce and if there is no Commerce subject in the Secondary Grade Education, then the said qualification is not benefiting the students. In other words the said qualification is not being utilized to the students. Therefore, the subject is very important for granting incentive increment. In the present case, the petitioner has qualified B.Com., M.Com., and for the Secondary Grade Education there is no Commerce subject at all. It is pertinent to state that the Secondary Grade Education teacher would take class for standards 1 to 5. Therefore, the students would not be benefitted by the Higher Education of the petitioner in Commerce. In such circumstances, the petitioner is not entitled to incentive increment.

8. The Government has passed G.O.Ms.No.37 Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020 read with G.O.Ms.No.116 Personnel and Administrative Reforms (FR-IV) Department, dated 15.10.2020, wherein it has been stated that if any incentive increment is not granted until now, then, the candidate is not entitled to, since the issuance of incentive increments is cancelled by G.O.Ms.No.37. Under sub clause 6 it has been held as under:

"6. For the forgoing reasons, the Government have taken a decision to cancel / dispense with the scheme of sanction of advance increment for acquiring higher qualification and for passing Account Test for Sub ordinate Officers Part-I as per rulings (3) & (4) under FR 31-A and also to cancel the orders issued in Government Orders fifth to eighth read above. Accordingly, the Government issue the following directions:-

i. As a policy decision, the scheme of sanction of advance increment for acquiring higher qualification in all departments and all orders issued by all departments for sanction of advance increment for possessing higher qualification, as a whole, be cancelled / dispensed with immediate effect



ii. The orders issued in the Government Orders fifth to eighth read above be cancelled with immediate effect.

iii. The sanction of the advance increment for passing Account Test for Sub ordinate Officers Part-I as per rulings (3) & (4) under FR 31-A be dispensed with immediate effect

iv. The advance increment for acquiring higher qualification already granted to government servants need not be effected any recovery.

v. All the departments of Secretariat / Head of the Departments are requested to take up a review on this issue with reference to the special / adhoc rules of the posts (entry to higher level) of the department concerned and to prescribe higher qualification to the posts where ever necessarily required, so as to improve the services of the department concerned.

vi. The cases of the Government servants who have acquired higher qualification prior to issue of this general order, and not sanctioned with advance increments be examined separately as per the previous orders issued, if any, by the administrative department concerned and with reference to the posts specified in that order and if he is otherwise qualified, then the advance increment may be sanctioned by the administrative department concerned, after obtaining concurrence of Finance Department. If no previous orders were issued by any of the department concerned, then they are not eligible for sanction of any advance increments for passing higher qualification irrespective of the post held / degree acquired.

vii) No fresh / further proposals will be entertained by Personnel and Administrative Reforms Department on this issue, in future."

9. In the present case there is no previous order passed granting incentive increment to the petitioner and hence as per Clause 6(vii) the petitioner is not entitled to incentive increment. Therefore, this Court is of the considered view that the petitioner is not entitled to advance increment as per G.O.Ms.No.37 and as well as G.O.Ms.No.1032.



10. Therefore, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Tmg

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

- 1.The Secretary to the Government,
Department of School Education,
Fort St. George, Chennai - 600 009.
- 2.The Director of Elementary Education,
College Road, Chennai - 600 006.
- 3.The District Elementary Educational Officer,
Virudhunagar, Virudhunagar District.
- 4.The Additional Assistant Elementary
Educational Officer,
Thiruchuli @ M.Rettiapatti,
Virudhunagar District.

+1 CC to M/s.SPLGP (SR-3645[F] dated 02/02/2022)

W.P. (MD) No.15776 of 2015
01.02.2022

MGJ(25.03.2022) 5P 6C