



WEB COPY

W.P.(MD).No.4421 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.4421 of 2017

and

W.M.P (MD) No.3556 of 2017

R.Jeyaprakasam

... Petitioner

Vs.

1.The Director of School Education,
College Road, Nungambakkam,
Chennai-600 006.

2.The District Educational Officer,
Virudhunagar District,
Virudhunagar.

3.The Correspondent,
Haji.Pe.Syed Mohammed Higher Secondary School,
Virudhunagar.

4.The office of the Account General (A&E),
Tamil Nadu, Chennai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the impugned order passed in O.Mu.No.3197/A5/2015, dated, 19.10.2015 and Na.Ka.No.942/A3/2016, dated, 03.03.2016, both on the file of the second respondent herein, pertaining to rejection of increment of the petitioner is concerned and to quash the same as illegal and direct the respondents to grant two increments, namely, 'Stagnation Increment' and 'Regular Increment', on account of completion of the service for 10 years as Selection Grade/Special Grade Post in the light of the G.O.Ms.No.241 Finance (Oo.Ku)Department, dated, 01.04.1981 and further direct the respondent to disburse the retirement benefits altering the pay scale according to the grant of the Stagnation Increment and Regular Increment from 01.11.1992 to till date.

For Petitioner	:	Mr.K.R.Laxman
For Respondents	:	Mr.V.Om Prakash
		Government Advocate
		for R1 and R2
		Mr.P.Gunasekaran
		for R4



ORDER

This present writ petition has been filed to quash the impugned order, dated, 19.10.2015 and 03.03.2016 and to direct the respondents to grant two increments, namely, Stagnation Increment and Regular Increment on account of completion of the service for 10 years as Selection Grade/Special Grade post in the light of the G.O.Ms.No.241 Finance (Oo.Ku) Department, dated, 01.04.1981 and further direct the respondents to disburse the retirement benefits altering the pay scale according to the grant of the stagnation increment and regular increment from 01.11.1992 to till date.

2.The brief facts of the case are that the petitioner was appointed as Art Teacher from 01.11.1962. He was awarded Selection Grade and Special Grade on 01.04.1974 and 01.11.1982 respectively. On 28.02.1994, the petitioner had retired from service. The contention of the petitioner is that he had worked as Special Grade for more than 10 years from 01.11.1982 to 31.10.1992. As per the G.O.Ms.No.241 Finance (Oo.Ku.) Department, dated, 01.04.1981, if the petitioner is placed under Special Grade and if he has completed 10 years of service, he is eligible for "Stagnation Increment". The petitioner submitted several reminders and representation. After a long period, the present impugned order, dated, 19.10.2015 was passed, rejecting the claim of the petitioner, stating that he has received the salary beyond limit, i.e., 1640-2900, which is equivalent to 2900/-. If he has served for 10 years, he is eligible. Further, it is stated that the petitioner has retired on 28.02.1994 and the petitioner misconceived the orders of the Government. The petitioner also relied on one more Government Order, i.e., G.O.Ms.No.562 Finance Department dated, 28.09.1998. Clarification order was issued by the Government in letter No.57086/PC/99-1 Finance (PC) Department, dated, 23.07.1999 where it has been clarified that the stagnation payment was granted in Government order in G.O.Ms.No.241 and the same is applicable and the said G.O. is still in force.

3.The learned counsel for the respondents have filed a counter stating that G.O.Ms.No.562 is applicable to the person, who have retired after 1998. The petitioner has filed this writ petition after lapse of so many years. The learned counsel for the respondents further submitted that the petitioner is not eligible for Stagnation Increment as per G.O.Ms.No.241 Finance (PC) Department, dated, 01.04.1981 and G.O.Ms.No.562 Finance (PC) Department, dated, 28.09.1998. The said Government Order is applicable only to those who have rendered 30 years of service in the very same category or Selection Grade/Special Grade without any promotion and that the orders came into effect from 01.09.1998. But the petitioner had retired from the service on 28.02.1994, prior to the implementation of the Government Order. Therefore, the respondents prayed for dismissal of the writ petition.



4.It is seen from the records that the petitioner was 76 years old at the time of filing this writ petition. Admittedly, the petitioner retired in the year 1994. The petitioner has submitted his representation. Thereafter the impugned order came to be passed. Aggrieved over the same, this writ petition has been filed in the year 2017. Though the petitioner has served in the third respondent school, which is minority institution, the school has not made any claim for the petitioner. The contention of the respondents is that G.O.Ms.No.562 is eligible for only the persons, who have retired after 1998, that is after the date of passing of the G.O.Ms.No.562 Finance Department dated, 28.09.1998. Admittedly, the petitioner has retired in the year 1994. Therefore, the petitioner is not entitled to G.O.Ms.No.562. However, the petitioner is entitled to G.O.Ms.No.241, which was issued in the year 1981.

5.Therefore, this Court is of the considered opinion that the petitioner is entitled to G.O.Ms.No.241. Since the petition is filed belatedly, the petitioner is not entitled to the full benefits as claimed by him. Therefore, the following order is passed:

- a.The petitioner is entitled to the benefits of G.O.Ms.No.241, dated, 01.04.1981.
- b.The respondents are directed to calculate the benefits from the date of entitlement.
- c.The petitioner is entitled to 50% of such calculation without any interest.
- d.The respondents are directed to give effect in the pensionary benefits also.
- e.The respondents shall implement this order within a period of four weeks from the date of receipt of the copy of the order.

6.With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

Sub Assistant Registrar(CS)

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 Director of School Education,
College Road, Nungambakkam,
Chennai-600 006.

2.The District Educational Officer,
Virudhunagar District,
Virudhunagar.

+1 CC to M/s.K.R.LAXMAN, Advocate (SR-17371[F] dated 07/04/2022)

+1 CC to M/s.SPL.GP (SR-17172[F] dated 07/04/2022)

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RS (01.06.2022) 4P/5C