



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.24997 of 2019

S.Thangaraju

... Petitioner

vs.

1.The Secretary to Government
School Education and Higher
Secondary Education Department
Secretariat, Chennai-600 009

2.The Director
School Education
DPI Compound
College Road
Nungampakkam, Chennai-36

3.The Chief Educational Officer
Trichy District, Trichy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the respondents to grant notional increment to the petitioner from 01.04.2007 and pay the arrears amount and revised his pension and refix the same as per the G.O.Ms.No.311 (Finance (cmpe)) Department, dated 31.12.2014.

For Petitioner : Mr.D.Selvanayagam

For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

O R D E R

The relief sought for in this writ petition is to direct the respondents to grant notional increment to the petitioner from 01.04.2007 and arrears amount as per G.O.Ms.No.311, Finance (CMPC) Department, dated 31.12.2014 (hereinafter, referred to as "G.O.Ms.No.311").

2. The petitioner states that he was selected and appointed as Physical Educational Teacher. He was not promoted to any other post and attained the age of superannuation on 31.01.2007. The services of the petitioner were extended till the end of academic



year as per the policy of the Government applicable to the Education Department and he was relieved from service on 31.05.2007. The grievance of the petitioner is that as per G.O.Ms.No.311, he is entitled to one notional increment as he has completed ten months of service on the date of his retirement.

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3. The learned counsel for the petitioner made a submission that the period of service till 31.05.2007 is to be considered for the purpose of calculation of one full year of service.

4. At this juncture, it would be more relevant to refer G.O.Ms.No.311 and the relevant portion of the said Government Order is extracted hereunder:

"3.After careful consideration, the Government have decided to accept the above recommendation of Pay Grievance Redressal Cell. Accordingly, the Government direct that a Government Servant whose increment falls due on the day following superannuation on completion of one full year of service which are countable for increment under Fundamental Rules 26 be sanctioned with one notional increment at the rate as described under rule 6 of Tamil Nadu Revised Scales of Pay Rules, 2009, purely for the purpose of pensionary benefits and not for any other purpose. The above concession of sanction of notional increment shall take prospective effect from the date of issue of this order."

5. Considering the aforesaid Government, this Court has also elaborately passed an order on 16.08.2017 in W.P.No.15107 of 2016. Therefore, the benefit of G.O.Ms.No.311 is to be extended only if an employee has completed one full year of service. The Government Order also unambiguously stipulates that the Government servant whose increment falls due on the day following superannuation on completion of one full year of service which are countable for increment under Fundamental Rules 26 be sanctioned with one notional increment. For example, if one full year of service of an employee is completed on 31.01.2007 and such an employee is due for increment on the next day, then alone one notional increment is to be granted as per the Government Order and that was reiterated by this Court in the order dated 16.08.2017. In several cases, such notional increment was not granted and hence, by interpreting G.O.Ms.No.311, this Court also directed to grant one notional increment. But, in the present case, even according to the petitioner, he has completed only ten months of service and not completed one full year of service on the date of his retirement i.e. 31.01.2007 and the extension period cannot be counted for the purpose of grant of notional increment. The actual retirement of the petitioner was 31.01.2007 and on that date, he has completed only ten months of service and therefore, G.O.Ms.No.311 is not applicable to the



petitioner and therefore, he is not entitled for any relief as such sought for in this writ petition.

6. However, the learned counsel for the petitioner emphasized that the petitioner is eligible for one notional increment. Therefore, the respondents shall verify the service records of the petitioner and find out whether the petitioner has completed one full year of service on the date of his retirement i.e. 31.01.2007 and if he has completed one full year of service, then alone the petitioner is eligible for such notional increment as per G.O.Ms.No.311. Such a verification shall be done by the respondents as expeditiously as possible.

7. With the above observations, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (Admin I)

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/ /2022

Sub Assistant Registrar(CS)

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To:

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School Education and Higher
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Secretariat, Chennai-600 009.

2.The Director,
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3.The Chief Educational Officer,
Trichy District, Trichy.

+1 CC to M/s.SPL.GP (SR-23249[F] dated 02/05/2022)

W.P. (MD) No.24997 of 2019
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MK/18.05.2022/3P/5C