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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.08.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.1319 of 2014
and
M.P.(MD)No.2 of 2014

- 1.The Government of Tamil Nadu,
Rep.by its Secretary,
Elementary School Education Department,
Chennai-9.
 - 2.The District Elementary Educational Officer,
Trichy.
 - 3.The Assistant Elementary Educational Officer,
Lalgudi, Trichy District.
 - 4.The Director of Elementary Education,
College Road,
Nungambakkam, Chennai. ...Appellants
- /Vs./
- D.Thirunavukkarasu ...Respondent

PRAYER:- Writ Appeal - filed under Clause 15 of Letters Patent Act, to
set aside the order dated 02.09.2013 in W.P.(MD)No.14363 of 2011.



For Appellants : Mr.V.Om Prakash
Government Advocate
For Respondent : Mr.P.Kalaiyarasi Bharathi

JUDGMENT

(Judgment of the Court was delivered by **R.VIJAYAKUMAR, J.**)

The Respondents in the Writ Petition are the appellants herein.

The writ petitioner, who is a retired Middle School Headmaster, had filed a Writ Petition challenging the order, under which his request for payment of additional increments due to him was rejected.

2.The petitioner was originally appointed as Secondary Grade Teacher on 14.06.1973. He was conferred with selection grade on 14.06.1983 and Special Grade on 14.06.1993. He was promoted as Primary School Head Master on 23.12.1999 as per G.O.Ms.No.159, Personnel and Administrative Reforms Department, dated 10.03.1998. The writ petitioner has to submit his option within a period of one month from the date of his promotion as to whether he would like to claim his increment on the basis of his pay scale as Secondary Grade Teacher or on the basis of Primary School Headmaster.



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3. According to the writ petitioner he had exercised his option and he had addressed a letter to the Authorities on 19.01.2000. The writ petitioner had attained superannuation on 30.04.2001 and he was disbursed with all the terminal benefits and thereafter, the writ petitioner has addressed several representations to the Authorities for grant of increment in the post of Primary School Headmaster with effect from 01.04.2000.

4. On the basis of alleged letter said to have been sent by the writ petitioner on 19.01.2000 exercising his option as per G.O.Ms.No. 159, dated 10.03.1998, the request of the petitioner for grant of increment from 01.04.2000 in the cadre of Headmaster was rejected by the order impugned in the writ petition on the ground that the petitioner had attained superannuation in April 2001 and he had accepted the terminal benefits as per the pay scale prevailing then and he had belatedly approached the Authorities for conferment of two additional increments. The impugned order further cited that letter dated 19.01.2000 said to have been addressed by the petitioner exercising his option, has not been



received by the Authorities. This order was challenged by the writ petitioner in W.P.(MD)No.14363 of 2011.

5.The learned Single Judge after considering the contentions raised on either side, had arrived at a finding that the initials found in the letter dated 19.01.2000 has not been denied by the Educational Authorities and hence, the writ petitioner has infact addressed a letter on 19.01.2000 exercising his option. This order is under challenge in the present writ appeal.

6.The learned Government Advocate appearing for the appellants relying upon the counter affidavit filed before the Writ Court contended that the letter dated 19.01.2000 was not received by the Authorities and it does not bear the seal of the department and there is no proof of delivery of the said letter. The writ petitioner had accepted the fixation of pay scale and received pensionary benefits and has not raised any objection. He had kept quite for more than twelve years.



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7.He further pointed out that the writ petitioner has not established the proof of delivery of the said letter to the Authorities within a period of one month from the date of his promotion. The writ Court was not right in presuming that the letter has been received by the department.

8.Per contra, the learned counsel appearing for the respondent/writ petitioner had contended that referring to the letter dated 19.01.2000, he has been continuously communicating with the Authorities from 2003 onwards for conferment of two additional increments on the basis of pay scale in the cadre of Primary School Headmaster. Receipt of such letters have not been specifically denied by the Authorities before passing the impugned order. For the first time, in the impugned order, the Authorities have contended that such letter has not been received. Hence, he prays for sustaining the order passed by the Writ Court.

9.We have heard the learned counsel on either side and perused the records.



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10.The fulcrum of the case of the writ petitioner relies upon the fact whether the letter said to have been addressed by the writ petitioner to the Educational Authorities on 19.01.2000, has really been received by the Authorities concerned. Admittedly, the writ petitioner got superannuation on 30.04.2001. Perusal of the letter, dated 19.01.2000 indicates that the writ petitioner calls himself as Headmaster (retired). Therefore, it is clear that the letter has been addressed by the Writ Petitioner only after his retirement i.e., after 30.04.2001.

11.As per G.O.Ms.No.159, dated 10.03.1998, the writ petitioner is expected to submit his option within a period of one month from the date of his promotion i.e., on or before 22.01.2000, to claim the benefit of increment with effect from 01.04.2000. Therefore, it is clear that the letter, which forms part of the typed set of papers alleged to have been addressed to the Educational Authorities on 19.01.2000, has not been actually addressed on the said date, but only after his retirement i.e., beyond the period prescribed under G.O.Ms.159, dated 10.03.1998



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12. Therefore, it is clear that the writ petitioner has not exercised his option within a period of one month from the date of his promotion and the Writ Court was not right in presuming that such letter exercising option was submitted by the writ petitioner within the time frame. Hence, the order passed by Writ Court is set aside and the writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

[A.S.M.J.] & [R.V.J.]
02.08.2023

NCC : Yes/No
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Internet : Yes
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DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

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Order made in
W.A.(MD)No.1319 of 2014

Dated:
02.08.2023