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W.P.No.10860 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2016

CORAM

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.10860 of 2016

and W.M.P.No.9474 of 2016

A.K.Sikander Basha

...Petitioner

Vs.

- 1.The Principal Accountant General,
O/o., the Principal Accountant General,
(A&E), Tamil Nadu,
No.361, Anna Salai, Chennai- 600 018
- 2.The Assistant Elementary Educational Officer,
Krishnagiri-635 001.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified mandamus, to call for the records of the first respondent herein in Legal Cell/RTI-104/2014-2015, dated 08.05.2014, quash the same and consequently direct the respondents herein to



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fix the pension of the petitioner by taking into account the last drawn pay of the petitioner as Rs.35,190/-.

For Petitioner : Mr.S.Suneetha

For Respondent : Mr.K.H.Ravikumar

Government Advocate for R2

Mr.P.Mano Rajan for R1

ORDER

Though the petitioner challenged the impugned proceedings whereby certain informations sought for by the petitioner under Right to Information Act, 2005, was furnished by the petitioner, the actual grievance of the petitioner is with reference to fixation of his last drawn pay as on 28.02.2013 the date on which the petitioner retired from service on attaining the age of superannuation. The entire dispute arose because of the confusion that was created in the matter of entitlement of the petitioner for award of incentive increment for having acquired M.A and B.Ed Degree through open University during the years 1992 & 1994 respectively. There are several Government Orders issued relating to award of incentive increment for having acquired qualifications i.e., G.O.Ms.No.307 School Education Department dated 05.12.2000, G.O.Ms.No. 29 School Education Department



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dated 17.12.2006 and G.O.Ms.No.100 School Education (E2) Department dated 30.04.2007. A combined reading of all the above Government Orders coupled with the averments made in paragraph No. 10 of the counter affidavit filed by the 2nd respondent, it is amply clear that the petitioner who acquired M.A and B.Ed qualification through open University is entitled for award of incentive increments from the date of acquiring such qualification i.e., with retrospective effect in terms of G.O.Ms.No.100 dated 30.04.2007. There is no dispute in this regard. Though the petitioner was awarded the incentive increments from the date of acquiring the higher qualifications that is M.A and B.Ed, the same was withdrawn and certain amounts were also recovered from the petitioner by virtue of proceedings bearing Na.Ka.No.437530/EH3/2000 dated 19.12.2000. Be that as it may, the petitioner has not contested the said recovery and retired from service on 28.02.2013. By the date of petitioner's retirement from service, the last drawn pay was Rs.33230/- and whereas the petitioner is making a claim for fixation of last drawn pay of Rs.35,190/-. According to the petitioner, in case if the said incentive increments for which the petitioner is otherwise entitled in terms of the above referred Government orders was awarded from the date on which



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the petitioner acquired such qualifications during the years 1992 & 1994, his last drawn pay would be Rs.35,190/- but not Rs.33,230/-. As on date the petitioner is being paid pension by considering his last drawn pay as Rs.33,230/-. As it is not in dispute, about the entitlement of the petitioner for award of incentive increments for having acquired M.A and B.Ed degree from the years 1992 & 1994 respectively in terms of the above referred three Government Orders, the pay of the petitioner is also required to be fixed by duly awarding the said incentive increments from the date of her entitlements in terms of G.O.Ms.No.100 dated 30.04.2007. But that does not appear to have been done by the respondents inspite of correspondance between the 1st respondent and 2nd respondent during the year 2013. Hence, the said claim of the petitioner is required to be considered by the respondents 1 and 2 in the light of the observations made hereunder.

2.In the light of the above, the writ petition is disposed of directing the 2nd respondent to refix the pay of the petitioner and arrive at the last drawn pay of the petitioner by duly awarding the incentive increment for which the petitioner is otherwise entitled to in terms of three Government Orders referred to herein above and submit appropriate proposals to the 1st



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respondent within a period of two months from the date of receipt of a copy of this order and on submission of such proposals by the 2nd respondent, the 1st respondent shall consider the said proposal and pass appropriate orders by duly taking into consideration the observations made in this order and pass orders there on as expeditiously as possible at any rate within a period of eight weeks from the date of receipt of proposal from the 2nd respondent and communicate the same to the petitioner. In case if the last drawn pay of the petitioner is revised as claimed by the petitioner, the entire arrears of pension shall be paid with effect from 28.02.2013 onwards.

3. With the above observations, this writ petition stands disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

18.12.2016

vsn

To

1. The Principal Accountant General,

O/o., the Principal Accountant General,

(A&E), Tamil Nadu,

No.361, Anna Salai, Chennai- 600 018

2. The Assistant Elementary Educational Officer, Krishnagiri-635 001.

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