



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 26.07.2024

Pronounced on : 30.10.2024

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**W.P.No.6274 of 2020**

M.V.Chandrasekar

... Petitioner

Vs.

1. State of Tamil Nadu,
Represented by Agriculture Production Commissioner
and Secretary to Government,
Fort St.George, Secretariat,
Chennai – 600 009.

2. The Commissioner,
Department of Agriculture Marketing and Agri Business,
Thiru Vi.Ka.Industrial Estate,
CIPPET Road, Chennai – 600 032.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned communication of the 1st respondent in Letter No.1024/Ve.V.1/2017 -2 dated 10/01/2018 and to quash the same and consequently directing the respondents to sanction advance increment to the petitioner for having acquired the higher qualification of P.G. Degree viz M.Sc. (Agri) from the date of appointment as per G.O.Ms.No.1159, P and AR Department dated 21/11/1984 as amended in G.O.Ms. No.97 Pa and AR Department dated 05/07/2010 based on the report of the 2nd respondent forwarded in Letter No.MCE 1- 24357 /10 dated 11/01/ 2017 as well as in Letter No.Na.Ka.No.MCE.1/24357/2010 dated 20.03.2017 with all consequential



WEB COPY

W.P.No.62



and attendant benefits within a time frame fixed by this Hon'ble Court.

For Petitioner : Mr.G.Sankaran, Senior Counsel
for Mr.S.Nedunchezhiyan

For Respondents : Mr.R.Neelakandan,
Additional Advocate General
assisted by Mr.M.Murali,
Government Advocate

ORDER

The brief facts that are relevant for disposal of this writ petition are as under:-

The petitioner herein was initially appointed as 'Supervisor' in Agriculture marketing Department on 27.09.2001 through the Combined Sub-Ordinate Services Examination- Group II Services Examination conducted by the Tamil Nadu Public Services Commission. Subsequently, the petitioner was promoted to the post of 'Superintendent' in the year 2009 and further promoted as 'Secretary, Market Committee' in the year 2016. As on the date of his initial appointment as 'Supervisor', the petitioner was possessing the qualification of B.Sc., (Horticulture) and M.Sc., (Agriculture). The qualification for the post of 'Supervisor', which is a Group II service is a Bachelors Degree. In view of the M.Sc., (Agriculture), the Post Graduate Degree possessed by the petitioner, he made a claim for grant of advance/ incentive increments for possessing the said higher qualification, in the light of the various orders issued by the Government from time to time. The claim of the petitioner was considered and rejected by the respondents through the impugned



proceedings dated 10.01.2018. The claim of the petitioner was rejected by the Respondent No.2 on the ground that the award of advance increments provided for the Post Graduate MBA Degree through G.O (Ms) No.825, Personnel and Administrative Reforms (FR-1) Department, dated 06.07.1977 and subsequent orders issued regarding sanction of two advance increments to those already possessed the Post Graduate Degree in Master of Business Administration was dispensed with through G.O (Ms) No.154, Personnel and Administrative Reforms (FR-IV) Department, dated 26.10.2010. It is aggrieved by the said proceedings dated 10.01.2018, the petitioner approached this Court by filing the present Writ Petition.

2. It is an admitted fact that the petitioner possessed the Post Graduate Degree viz., M.Sc., (Agriculture) as on the date of his initial appointment as 'Supervisor' in the Agriculture Marketing Department. This is not the qualification acquired by the petitioner after he entered into service.

3. As already noted above, the claim of the petitioner was negated by the Respondent No.2 by passing an order dated 10.01.2018, which is impugned in this writ petition. The only reason assigned in the impugned order is that the scheme of granting advance increments for acquiring Post Graduate MBA Degree was



withdrawn through G.O (Ms) No.1195, Personnel and Administrative Reforms (FR-I) Department dated 27.10.1978. The claim of the petitioner for grant of advance increments is based upon the Post Graduate Degree viz., M.Sc., (Agriculture) possessed by the petitioner. It is not the MBA Degree, which is the basis for the petitioner to make a claim for grant of advance increments. Therefore, the impugned order, on the face of it, suffers from the voice of non-application of mind and therefore, the same is liable to be set aside. However, considering the request made by Mr.G.Shankaran, learned Senior Counsel appearing for the petitioner and Mr.R.Neelakandan, learned Additional Advocate General appearing for the respondents, this Court is inclined to examine the claim of the petitioner on merits as well, instead of simply remanding the matter back to the respondents.

4. Heard Mr.G.Sankaran, learned Senior Counsel for Mr.S.Nedunchezhiyan, appearing for the petitioner and Mr.R.Neelakandan, learned Additional Advocate General, assisted by Mr.M.Murali, learned Government Advocate appearing for the respondents and also perused the entire material on record.

5. For proper appreciation of the matter, it is necessary to refer to various Government Orders that provide for awarding of advance/ incentive increments for having acquired the additional/ higher qualifications by the Government Servants.



WEB COPY

W.P.No.62



6. Originally, the scheme of awarding advance increments for passing Accounts Test Examination and thereafter, through G.O (Ms) No.1195, Personnel and Administrative Reforms (FR-I) Department dated 27.10.1978 and issued orders for sanctioning advance increments to the Assistant Engineers/ Executive Engineers, Public Works, Highways and Rural Works Department for acquiring Post Graduate/ PHD., in Engineering Degree. Thereafter, through G.O (Ms) No.825, Personnel and Administrative Reforms (FR-I) Department, dated 06.07.1977, two advance increments were allowed for those, who acquired the Post Graduate Degree of Master of Management Sciences from the recognized Institutions and through G.O (Ms) No.1195, Personnel and Administrative Reforms (FR-I) Department dated 27.10.1978, the provision of granting advance increments was extended to MBA Holders.

7. In terms of the above Government Orders, various similar orders were also issued by various other Departments like Agriculture Department, Animal Husbandry etc., for sanctioning advance increments to certain category of staff of those Departments for acquiring Post Graduate/ phd Degrees in their respective



subjects. However, thereafter through G.O (Ms) No.843, Personnel and Administrative Reforms (FR-II) Department, dated 05.09.1983, consolidated orders were issued for sanction of lumpsum grant instead of advance increments for acquiring higher qualifications in certain Departments, including Agriculture Department.

8. However, again through G.O (Ms) No.1159, Personnel and Administrative Reforms (FR-II) Department, dated 21.11.1984, the earlier scheme of awarding advance increments was restored, while withdrawing the scheme of lumpsum grants. Thereafter, through G.O (Ms) No.97, Personnel and Administrative Reforms (FR-IV) Department, dated 05.07.2010, the award of advance increments was subjected to certain conditions, as mentioned in G.O (Ms) No.97, Personnel and Administrative Reforms (FR-IV) Department, dated 05.07.2010, whereby G.O (Ms) No.1159 Personnel and Administrative Reforms (FR-II) Department, dated 21.11.1984 was amended. Thereafter, the Government issued G.O (Ms) No.154, Personnel and Administrative Reforms (FR-IV) Department, dated 26.10.2010, cancelling the advance increments provided for acquiring MBA Degree. It is thereafter through G.O (Ms) No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020, the scheme of sanctioning advance increments to Government Servants for acquiring higher qualification was dispensed with and the



orders issued in G.O (Ms) No.1159 Personnel and Administrative Reforms (FR-II) Department, dated 21.11.1984 and other similar Government Orders were cancelled and provided for grant of a lumpsum amount. However, in terms of Paragraph No. 6(vi) of G.O (Ms) No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020, saved the rights of the Government Servants who have acquired higher qualification prior to issuance of the said Government Order, but not sanctioned with advance increments and allowed such claims to be examined separately in terms of the Government Order issued in the respective Departments. Even thereafter, the Government through G.O (Ms) No.95, Human Resources Management (FR-IV) Department, dated 26.10.2023, cancelled the orders issued in G.O (Ms) No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020 and provided for granting incentive in the form of one time lumpsum amount to the State Government Employees, subject to following various guidelines issued in the said Government Order. The Government also further directed that all the pending applications for sanction of advance increments for having acquired higher educational qualifications as on 10.03.2020 and schemes made subsequently for sanction of such benefits shall be disposed of as per the New Scheme of granting lumpsum amount only.

9. The eligibility or otherwise of the petitioner for grant of additional



increments for possessing M.Sc., (Agriculture) Post Graduate Degree is depending upon relevant Government Orders that are issued, providing for awarding of such additional increments.

10. As seen from the prayer made in the writ petition, the claim of the petitioner is based on G.O (Ms) No.1159 Personnel and Administrative Reforms (FR-II) Department, dated 21.11.1984, as amended by G.O (Ms) No.97, Personnel and Administrative Reforms (FR-IV) Department, dated 05.07.2010. Through G.O (Ms) No.1159 Personnel and Administrative Reforms (FR-II) Department, dated 21.11.1984, it is only the schemes that were existing prior to issuance of G.O (Ms) No.843, Personnel and Administrative Reforms (FR-II) Department, dated 05.09.1983 were revived. However, thereafter certain conditions were imposed through G.O (Ms) No.97, Personnel and Administrative Reforms (FR-IV) Department, dated 05.07.2010.

11. Whether the scheme providing for awarding of advance increments for having acquired higher qualifications in respect of the persons, who already acquired such higher qualification prior to issuance of G.O (Ms) No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020 has already



came up for consideration earlier, as the said issue was already considered by me in W.P (MD) No.19093 of 2020 and the view taken by me is confirmed by a learned

Division bench of Madurai Bench of this Court in W.A (MD) No.1052 of 2024.

12. In this connection, it would be appropriate to extract the relevant portion from the order passed by the learned Division Bench, which reads as under:-

“9.Only on the strength of the clarificatory order issued in G.O. (Ms)No.95, the learned Special Government Pleader vehemently contended that the Writ Petitioner would only be entitled for the lumpsum payment and the Writ Petitioner is not entitled to receive the incentive increment, as claimed by him.

10.We had an occasion to deal with the similar kind of issue in respect of granting incentive increment for the persons, who had acquired additional qualification prior to issuance of G.O,(Ms)No.37, in W.A. (MD)No.975 of 2024, dated 12.06.2024 and held as follows:

“8.G.O(Ms)No.37 does not operate retrospectively and the purposive interpretation of Clause 6(vi) in the Government Order can only be that the Teachers, who had all acquired the higher qualification prior to the issuance of the Government Order and if otherwise qualified are eligible for sanction of the incentive increment. If the interpretation made by the learned Additional



WEB COPY

W.P.No.62



Government Pleader is to be accepted, then the very object of the inclusion of clause 6(vi) in the Government Order becomes redundant. As such, we have no hesitation to hold that the Teachers, who, after obtaining necessary permission from the authorities, had acquired higher qualification, ie., wherever the degrees had been awarded prior to issuance of G.O.(Ms)No.37, dated 10.03.2020, are entitled for advance increment for the higher qualification, if it is within the limit of two incentive increments in their career.”

11. Therefore, already we have held that all the persons, who had been acquired additional qualification prior to issuance of G.O.(Ms)No.37, if it is within two incentive increment, they are entitled for grant of incentive increment. Further, the clarification issued in G.O.(Ms)No.95, had been dealt with by the learned Judge and having found that G.O.(Ms)No.37 cannot operate retrospectively, the benefits granted under the incentive scheme prior to the Government Order, cannot be taken back and therefore, the similarly placed persons cannot be discriminated and treated unequally. As, already it has been decided that G.O.(Ms)No.37, does not have a retrospective effect and the employees, who had acquired additional qualification prior to issuance of G.O.(Ms)No.37, are entitled for the grant of incentive increment, the clarificatory order issued in G.O.(Ms)No.95, can in no way affect the rights of the concerned persons, who had acquired additional qualification and the right accrued on them cannot be tinkered with or taken away and the benefits cannot be denied through this clarificatory order.”

From the above, it is evident that the learned Division bench also has taken note of the orders issued in G.O (Ms) No.95, Human Resources Management (FR-IV)



Department, dated 26.10.2023 and came to the conclusion that the persons, who already acquired higher qualifications prior to issuance of G.O (Ms) No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020 are entitled for award of such advance increments.

13. Therefore, in case if the petitioner satisfies the requirements of various Government Orders from time to time providing for awarding of advance increments for having possessed higher qualification, then the case of the petitioner is required to be re-considered, as this Court has already come to the conclusion that the impugned order cannot be sustained on the reasons assigned in the said order.

14. In this context, it is also necessary to notice the purpose of awarding advance increments to the Government Servants, who acquired higher educations, is to avail better services and better expertise from them and also to encourage the Government Servants to work with all enthusiasm and continue in service even after acquiring the higher qualifications. This is only a concession provided by the State and the same cannot be claimed as a matter of right or as a matter of service condition. In this connection, it is relevant to notice the observations made by different learned Division Benches of this Court.



15. In W.A.No.3976 of 2019 dated 05.12.2019, the learned Division Bench of this Court observed as under:-

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“12. Advance increment is an incentive given to persons, who after entering into service, pursue higher educational qualifications in order to be more equipped and to perform better while discharging duties. The Government gives maximum of three advance increments on acquiring an educational qualification. The appellant was already possessing M.Sc degree while entering into service. He has acquired Ph.D degree after entering into service. The argument of learned counsel for the appellant that there is no prohibition to give three advance increments on acquiring Ph.D degree cannot be accepted. The appellant has not pointed out that advance increments can be given even for degrees acquired prior to entering into service. The purpose of grant of advance increments is to improve the quality of work by the employees after they enter into service with the minimum qualification required for the posts. The appellant is therefore entitled to only one advance increment for Ph.D degree which he has acquired after entering into service.”

16. In W.A.No.1554 of 2016, another learned Division Bench of this Court observed as under:-

“4. Incentive increments are not statutory entitlement. They are exgratia payments made by the State as incentive for obtaining higher qualification. They cannot be granted for the asking. A person who claims incentive increment must satisfy the requirements of the Government Orders issued in this regard. Once the Government Order clearly stipulates that incentive increment would be payable only if the higher qualification relates to the specific subject, the petitioner



cannot claim incentive increment for having obtained higher qualification in a totally different subject.”

WEB COPY 17. In W.A (MD) No.718 of 2016, yet another learned Division Bench of

Madurai Bench of this Court observed as under:-

“5. The scheme of incentive increment is a concession granted by the Government to the teachers to encourage them to acquire higher educational qualification for the benefits of the children studying in educational institutions. Since it is a concession, it is to be sanctioned strictly in accordance with the Government schemes and the Court cannot re-write the eligibility criteria already fixed by the Government for grant of incentive increment to the teaching staffs. Therefore, the learned Single Judge has failed to consider these aspects and granted incentive increment for the qualification of B.Ed degree in favour of the respondent, which is not contemplated under the scheme of incentive increment by the Government. In the event of extending the scope of the scheme, the same will result in financial loss to the Government as the scheme itself is extended by way of concession to the teachers. That being the factum, we find merit in the contentions raised by the appellants and accordingly, the order dated 17.04.2012 passed in W.P.(MD).No.12816 of 2011 is set aside. ”

18. In the light of the above and in the light of the conclusion already arrived at by this Court, finding fault with the reasoning assigned in the impugned order as wholly unsustainable and this Court is left with no other alternative except to remand the matter back to the respondents for reconsideration strictly in terms of Paragraph No.6(vi) of G.O (Ms) No.37, Personnel and Administrative Reforms



(FR-IV) Department, dated 10.03.2020.

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19. In this connection, it is necessary to make it clear that the claim of the petitioner for award of advance increment is basing upon M.Sc., (Agriculture) Post Graduate Degree possessed by him. Admittedly, the petitioner was in possession of the said Post Graduate Degree by the date of his entry into Government Service. Whether the post in which the petitioner was initially appointed i.e., 'Supervisor' and the promotional post viz., 'Superintendent', 'Secretary, Market Committee' etc., are the posts in respect of which any orders are issued for award of advance increments for having possessed the higher qualification or not in Agriculture Department is to be verified.

20. The other question that is required to be verified is as to whether the petitioner, who already possessed the Post Graduate Degree by the date of his entry into service is entitled for award of such advance increments or it is only in case of acquisition of higher qualification after entering into Government Service only, he can make a claim for advance increments? If there are any Government Orders issued in respect of Agriculture Department or by P&AR Department, extending the benefit of advance increments to the post of 'Secretary, Market Committee', then the claim of the petitioner is required to be examined by the respondents.



21. Though learned Senior Counsel placed reliance on various decisions of the Hon'ble Apex Court dealing with the retrospective effect of the amendment etc., this Court does not deem it necessary to refer to all such decisions, as the issue has already been decided by the learned Division Bench, as already noted herein above.

22. Accordingly, the impugned order bearing கடித.எண்.1024/வேவி1/2017-2, dated 10.01.2018 is hereby set aside and the Writ Petition is disposed of, directing the respondents to re-consider the claim of the petitioner for award of advance increments strictly in accordance with various Government Orders, duly taking into consideration the observations made herein above. There shall be no order as to costs. Connected Miscellaneous Petitions, if any shall stand closed.

30.10.2024

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Secretary to Government of Tamil Nadu,
Represented by Agriculture Production Commissioner



W.P.No.62



Fort St.George, Secretariat,
Chennai – 600 009.

2. The Commissioner,
Department of Agriculture Marketing and Agri Business,
Thiru Vi.Ka.Industrial Estate,
CIPPET Road, Chennai – 600 032.



WEB COPY

W.P.No.62



MUMMINENI SUDHEER KUMAR, J.

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Pre-Delivery Order made in
W.P.No.6274 of 2020

30.10.2024