



W.P.No.37002 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	1/11/2023
Pronounced on	30/4/2024

C O R A M

The Hon'ble Dr.Justice **D.NAGARJUN**

Writ Petition No.37002 of 2016

P.Poornadevi

...

Petitioner

Vs

1. The Government of Tamil Nadu
rep. By Secretary
Rural Development and Panchayat Raj Department
Fort St. George
Chennai 9.

2. The Director
Rural Development and Panchayat Raj Department
Panagal Maaligai
Saidapet
Chennai 15.

3. The District Collector
Tiruppur District
Tiruppur.

...

Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of mandamus to direct the respondents to grant two advance increments to the petitioner with effect from 24/11/2007 the date of her joining the Department, and consequentially to revise the petitioner's basic pay and further to pay her all consequential arrears.



W.P.No.37002 of 2016

WEB COPY

For petitioner

...

Mr.N.Subramaniyan

For respondents

...

Mr.M.Murali
Government Advocate

ORDER

This writ petition has been filed to direct the respondents to grant two advance increments to the petitioner with effect from 24/11/2007 and consequentially to revise the petitioner's basic pay and further to pay her all arrears.

2. The petitioner has joined as Assistant Engineer in Rural Development and Panchayat Raj Department. He has completed his M.E degree in Irrigation Water Management during 2007 at his own cost. As per the law in force, she is entitled to get advance increments for acquiring M.E.Degree. In spite of several representations, the respondents have not considered the case of the petitioner. Hence the petitioner has come forward with the instant writ petition.

3. Prior to 5/9/1983, though there was no specific policy as such formally, two advance increments were used to be given for those employees



W.P.No.37002 of 2016

who acquire M.E.Degree in any qualification after entering into service. On 5/9/1983, G.O.Ms.No.843 was issued for grant of lump sum amount instead of granting advance increments for acquiring additional qualifications. However, on the objections made by the Service Associations, G.O.Ms.No.1159 was issued on 29/11/2084 withdrawing the orders in G.O.Ms.No.483 dated 5/9/2983 and restoring the position that was prevailing prior to 5/9/1983, a clarificatory letter was issued by the Government on 6/5/1985 in respect of policy of giving two advance increments. The said clarificatory letter was challenged in W.P.No.22933 of 2007 which was allowed on 7/1/2009, observing that the said clarificatory letter was running against the Government Order and the said letter dated 6/5/1985 was quashed.

4. Then the Government has issued G.O.Ms.No.97 dated 5/7/2010 amending G.O.Ms.No.1159 dated 21/11/1984 incorporating the conditions that were found in the clarificatory letter dated 6/5/1985. Subsequently, mentioning that the said G.O.Ms.No.97 dated 5/7/2010 will have only prospective effect i.e., from 5/7/2010 will not apply to Engineers of Rural Development Department. Accordingly, orders were issued vide G.O.Ms.No.94 dated 25/7/2014 by the first respondent, granting two advance increments to the



W.P.No.37002 of 2016

Engineers working in Rural Development Department. Thereby, several Engineers were sanctioned with two advance increments for acquiring M.E degree however, the petitioner's request for advance increments has not been considered on erroneously relying upon G.O.Ms.No.128 dated 23/3/2016, which was issued cancelling the orders issued in G.O.Ms.No.94 dated 25/7/2014. According to G.O.Ms.No.128 dated 23/3/2016 orders issued in G.O.Ms.No.94 dated 25/7/2014 granting two advance increments for Engineers who are working in Engineering Wing of Rural Development and Panchayat Department with P.G degree in Engineering shall stand cancelled and the said Scheme is dispensed with immediate effect from the date of issuance of the said order which is 23/3/2016.

5. The petitioner submits that G.O.Ms.No.128 dated 23/3/2016 has been specifically given with a mala fide intention to victimise the Engineers on professional bias by the incumbent I.A.S Officers and even as per the said G.O.Ms.No.128, orders in the said G.O., will come into effect prospectively i.e., from 23/3/2016, thereby, the petitioner is not challenging the said G.O.



W.P.No.37002 of 2016

6. It is submitted that the petitioner has got P.G qualification much earlier to the issuance of G.O.Ms.No.128, thereby, entitled for two advance increments. It is submitted that many persons which are similarly placed to that of the petitioner were given benefit of two advance increments and thereby, sought for grant of similar relief.

7. The Director, Rural Development and Panchayat Raj, Chennai/second respondent has filed counter affidavit dated 18th July, 2019, wherein it is stated that the scheme of sanctioning two increments will be applicable only if the special qualification is prescribed as one of the requisite qualification for appointment to the post. The petitioner has acquired M.E.Degree in Engineering which is not prescribed qualification for the appointment as Assistant Engineer and therefore, the petitioner is not eligible for two increments even though the petitioner has acquired M.E Degree in Engineering at the time appointment as Engineer. Even though the petitioner has acquired M.E.Degree in Engineering at the time of appointment as Engineer, this Post Graduate qualification is not made essential for the petitioner's further promotion.



W.P.No.37002 of 2016

8. It is further stated in the counter affidavit that the petitioner has mis-interpreted the contents of the Government Orders, Amendments and Clarifications issued by the Government from time to time in respect of sanction of two advance increments for Post Graduate qualification in Engineering and she claimed the two increments for having acquired Post Graduate qualification in Engineering in this writ petition, which is to be summarily rejected.

9. Heard Mr.N.Subramaniyan, learned counsel for the petitioner and Mr.M.Murali, learned Government Advocate for the respondents.

10. It is submitted by the learned counsel for the petitioner that petitioner is entitled for grant of two advance increments as per the Policy, which was prevailing prior to the issuance of G.O.Ms.No.128 dated 23/3/2016 and that similarly placed persons were already given the benefit of two advance increments for acquiring P.G qualification in Engineering.

11. On the other hand, the learned Government Advocate submits that since G.O.Ms.No.128 dated 23/3/2016 has cancelled the sanction of



W.P.No.37002 of 2016

advance increments for acquiring M.E Degree for Engineers in the Rural Development Department, the petitioner is not entitled. It is also submitted that subsequent Pay Commissions have also not recommended in advance increments for such P.G qualifications.

12. The learned counsel appearing for the petitioner has brought to the notice of this Court that Block Development Officer of Mulanur has recommended the District Collector for sanction of two advance increments for the petitioner to acquire M.E.Degree by way of letter dated 22/3/2011 and when there was no proceeding issuing advance increments to the petitioner, petitioner has submitted a representation dated 24/6/2011 to the third respondent District Collector for sanctioning of advance increments.

13. The respondents have objected for grant of advance increments to the petitioner on the ground that G.O.Ms.No.128 dated 23/3/2016 was issued cancelling the grant of advance increments and thereby, the petitioner is not entitled.



W.P.No.37002 of 2016

14. As rightly submitted by the learned counsel for the petitioner that G.O.Ms.No.128 dated 23/3/2016, specifically speaks that G.O will come into effect from the date of issue i.e., from 23/3/2016 that means from 23/3/2016 who ever completes M.E Degree, they are not entitled for advance increment, since it is specifically mentioned that G.O.Ms.No.128 is only prospective, the petitioner who acquire advance increment prior to 23/3/2016 is entitled for release of two advance increments on par of similarly placed persons who were granted the relief.

15. Accordingly, this **writ petition is allowed**, directing the respondents to grant two advance increments from the date of acquiring M.E Degree and to revise the petitioner's pay and pay consequential benefits to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. No costs.

30/4/2024

mvs.

Index: Yes/No

NCC: Yes/No



WEB COPY



W.P.No.37002 of 2016

To

1. The Secretary
Government of Tamil Nadu
Rural Development and Panchayat Raj Department
Fort St. George
Chennai 9.
2. The Director
Rural Development and Panchayat Raj Department
Panagal Maaligai
Saidapet
Chennai 15.
3. The District Collector
Tiruppur District
Tiruppur.



WEB COPY



W.P.No.37002 of 2016

Dr.D.NAGARJUN,J

mvs.

**Pre-delivery order made in
W.P.No.37002 of 2016**

30/4/2024