



W.P.No.16386 of 2020, etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.16386, 16389, 16396, 16397, 16400 & 16402 of 2020

WP.No.16386 of 2020

A.V.Annamalai

... Petitioner

Vs.

- 1.The State of Tamilnadu,
Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat,
Chennai-9
- 2.The Additional Secretary to Government,
Personnel and Administrative Reforms (FR-1) Department,
Secretariat,
Chennai-9
- 3.The Secretary to Government,
Finance (Pension) Department,
Secretariat,
Chennai-9
- 4.The Secretary to Government,
School Education Department,
Secretariat,
Chennai-9

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the second respondent in Lr.No.13177/FR-1/2020-1, dated



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03.06.2020 and quash the same and direct the respondents to extend the benefits of advancement of the quarter increment and counting the said increment along with pay for the purpose of fixation of pension to the petitioner on the basis of the Government orders issued in G.O.(Ms).No.148, P& AR (FR-II) Department dated 31.10.2018 and also based on the Government letter issued in Lr.No.784/FR-I/2019-1, P&AR(FR-I) Department, dated 04.03.2019.

For Petitioner
in all WP's : Mr.K.Arumugam

For Respondents
in all WP's
For R1 to 3 : Mr.C.Kathiravan,
Special Government Pleader

For R4 : Mrs.S.Mythreye Chandru,
Special Government Pleader

COMMON ORDER

These writ petitions have been filed challenging the order passed by the second respondent dated 03.06.2020 thereby rejected the request made by the petitioners seeking advancing the increment.

2. All the petitioners in all the writ petitions submitted representations seeking benefit for the Government servant who retires



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even before the date of the annual increment to be considered for increment as per GO.Ms.No.148 Personnel and Administrative Reforms (FR-II) Department dated 31.10.2018 thereby amended the Fundamental Rule 26(a) sub-clause 13(ix) and extended the benefit of increment to the person who retires in a quarter and for person who expires also. All the petitioners had served as Teacher and Headmaster in their respective schools and they were retired from service. They were granted pension from the date of their retirement. As per the Fundamental Rules, annual increment was granted to the Government servants after completion of one year provided the Government servant is to be in service on the next day of increment date.

2.1 The Government passed order in GO.Ms.No.311 Finance (CMPC) Department dated 31.12.2014 and ordered that after careful consideration, the Government has decided to accept the recommendations of pay grievance redress 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 Rule 26, be



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sanctioned with one notional increment at the rate as described under Rule 6 of Tamil Nadu Revised Scales of Pay Rule, 2009, purely for the purpose of pensionary benefits and not for any other purpose. While being so, the Government passed another order in GO.Ms.no.140 Finance (Pay Cell) Department dated 25.04.2018 and thereby ordered in favour of all eligible retired employees who have completed one full year of service and not sanctioned annual increment due to their superannuation prior to 31.12.2014. Further, the letter dated 13.08.2018 clarified that by the Government order in GO.Ms.no.140 Finance (Pay Cell) Department dated 25.04.2018, the Government extended the benefit of exercising the option, under eighth proviso to Fundamental Rule 22B in respect of persons who get promotion on the verge of retirement and whose date of next increment in the lower post falls on the next day of retirement. Accordingly, the Government issued an amendment to Fundamental Rule 26(a) sub-clause 13(ix) in GO.Ms.No.148 Personnel and Administrative Reforms (FR-II) Department dated 31.10.2018. Accordingly, the said amendment is as follows:

(ix) The increment of a Government servant which falls due in a quarter may be sanctioned on the first day



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of that quarter even though he retires from services or expires prior to the actual date of accrual of increment.

2.2 As far as the petitioners are concerned, they had retired before the date of their annual increment and as such, they submitted representation to extend the said benefit for them also.

3. Heard, the learned counsel appearing on either side and perused all the records placed before this Court.

4. On perusal of the counters filed by the respondents, revealed that Rule 13 sub-clause (ix) under FR 26(a) is existing from 01.01.1974 itself. GO.Ms.No.41 Finance (FR-I) Department dated 11.01.1977, Rule 13(i) to 13(x) had been added to the rulings under FR 26(a) and the said amendment came into force from 01.01.1974. Further, in certain departments, increments have not been sanctioned to the Government servants who expired on the same quarter in which their annual increments fall. Therefore, clarification was sought for as to whether a Government servant who expires on the same quarter in which his increment due falls, be sanctioned with increment on the first day of



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that quarter as in the case of retirement of Government servants in that quarter. Considering the same, the Government had issued amendment to the said ruling 13(ix) of FR 26(a) incorporating the words “or expires” by GO.Ms.No.148 Personnel and Administrative Reforms (FR-II) Department dated 31.10.2018. Thus, it is clear that the said amendment is not a new one, but is in existence for the past four decades and also all along these periods, action was taken accordingly to those who fulfills the condition therein.

5. On perusal of records, the date of retirement of the petitioners had not fallen in the quarter of increment. Further, they are not similarly placed persons as they are not getting their first increment in the post of Secondary Grade Teacher or in the promotional post. Therefore, advancing the first increment in a post to the first day of quarter in which it fell due, is the policy of the Government and for second and subsequent increments, they must complete one full year of qualifying service as per the conditions under Fundamental Rules 26. Therefore, it cannot be extended to the Government servants who have not retired from service / expired in the same quarter in which the annual increment due falls. The



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rule is also very clear that ruling 13(ix) does not provide for advancing of increment falling in a quarter to the first day of previous quarter. Therefore, the claim of the petitioners was rightly rejected by the second respondent and this Court finds no infirmity or illegality in the impugned orders. As such, all the writ petitions are devoid of merits and the same are liable to be dismissed.

6. Accordingly, all the writ petitions are dismissed. There shall be no order as to costs.

06.08.2024

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
lok

G.K.ILANTHIRAIYAN, J.

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To

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The State of Tamilnadu,
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Chennai-9
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