
(2009) 08 MAD CK 0243
In the Madras High Court
Case No : Writ Petition No. 11846 of 2007

A. Jayakumaran

APPELLANT

Vs

The Government of Tamil Nadu

RESPONDENT

Date of Decision : 25-08-2009

Acts Referred:

Citation : (2009) 08 MAD CK 0243

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : A.S. Kaizer, for the Appellant; C.K. Vishnupriya, Additional Government Pleader, for the Respondent

Judgement

D. Hariparanthaman, J.—The Original Application in O.A. No. 328 of 2002 before the Tamil Nadu Administrative Tribunal (hereinafter referred to as the "Tribunal") is the present writ petition.

2. Heard the submissions made by Mr. A.S. Kaizer, learned Counsel for the petitioner and Mrs. C.K. Vishnupriya, learned Additional Government Pleader for the respondents.

3. The petitioner filed the Original Application in O.A. No. 328 of 2002 (W.P. No. 11846 of 2007) before the Tribunal to quash the impugned order dated 28.12.2001 passed by the second respondent, withdrawing the bonus increment and thereby re-fixing the scale and also ordering recovery. The Tribunal granted stay of recovery alone.

4. The petitioner was appointed as Head Master of Elementary School on 20.03.1968. He was granted Selection Grade in the post of Elementary School Head Master on 20.03.1978, on completion of ten years service. He was granted Special Grade in the post of Elementary School Head Master on 20.03.1988, on completion of twenty years of service.

5. The petitioner was granted Bonus increment with effect from 01.09.1998, in

view of Government Order in G.O.Ms. No. 562, Finance (Pay Cell) Department, dated 28.09.1998 (hereinafter referred to as the "G.O") providing for Bonus increment for stagnating in a post beyond thirty years or in Special Grade beyond ten years with effect from 01.09.1998.

6. While so, the second respondent passed the impugned order dated 28.12.2001 stating that the petitioner is not entitled to bonus increment, since the post of Elementary School Head Master and the post of Secondary Grade Teacher carries same scale of pay, prior to 01.06.1988 and different scale was prescribed only from 01.06.1988.

7. The learned Counsel for the petitioner submits that whether the posts of Secondary Grade Teacher and Elementary School Head Master carries the same scale or different scale, is not relevant for deciding the right to get bonus increment. The relevant criteria is that the person is stagnating in the Special Grade beyond ten years. Admittedly the petitioner was granted Special Grade from 20.03.1988 and he was in the Special Grade beyond ten years as on 01.09.1998. Hence, he is entitled to bonus increment from 01.09.1998.

8. The learned Additional Government Pleader reiterate the averments made in the reply affidavit to sustain the impugned order.

9. The petitioner has enclosed the said Government Order G.O. 562 in the typed set and the same is extracted here under:

...Representations have been made by several employees associations before the One Man Commission constituted in the Government Order second read above for opening an incentive viz. Super Grade or Senior Grade for those employees who have completed 30 years of service in the same post above the existing Special Grade. The one Man Commission among other things has recommended that employees stagnating in a post beyond 30 years or employees stagnating in Special Grade beyond 10 years be granted with one bonus increment with a view to keep the employees vibrant and active during the fag end of their service.

2. The Government after careful examination of the recommendations of the One Man Commission has decided to accept it. Accordingly Government directs that employees stagnating in a post beyond 30 years i.e. employees stagnating in the Special Grade beyond 10 years be granted with one bonus increment as an incentive.

3. These orders shall take effect from 1st September 1998.

10. The G.O. makes it very clear that an employee is entitled to bonus increment, when he stagnates in Special Grade beyond ten years. In this case, admittedly, the petitioner was in Selection Grade beyond ten years. Hence, he is entitled to bonus increment. Hence, the impugned order is contrary to and in violation of G.O. and moreover, the very purpose of G.O. is to grant certain benefits for persons stagnating beyond ten years in the Special Grade. Hence, the impugned order is liable to be set aside and accordingly quashed.

11. The learned Counsel for the petitioner states that the petitioner was retired from service.

12. Since the impugned order is quashed, the second respondent is directed to give the benefit of bonus increment payable to the petitioner from 01.09.1998 including the arrears and consequently to revise the pension and other terminal benefits payable to petitioner and to pay the arrears thereon, within a period of eight weeks from the date of receipt of a copy of this order.

13. The Writ Petition is disposed of with the above direction. No costs.