
(2014) 02 MAD CK 0144

In the Madras High Court

Case No : Writ Petition No. 26687 of 2011 and M.P. No. 1 of 2011

P. Ramakrishnan

APPELLANT

Vs

The Director of Elementary Education

RESPONDENT

Date of Decision : 20-02-2014

Acts Referred:

Citation : (2014) 3 LLN 180 : (2014) WritLR 842

Hon'ble Judges : M. Venugopal, J

Bench : Single Bench

Judgement

M. Venugopal, J.—The Petitioner has projected the present Writ of Certiorarified Mandamus calling for the entire records relating to the proceedings in Aa.Thi.Mu. No. 628/A2/10, dated 22.9.2010 and Na.Ka. No. 809/A1/2011, dated 4.10.2011 on the file of the Third Respondent, quash both the Orders and consequently direct the Respondents to sanction one set of additional incentive Increment to the Petitioner for having acquired M.Ed., qualification within a time that may be fixed by this Honourable Court. According to the Petitioner, he completed his Diploma in Teacher Education in the year 1975; B.A. (History) during 1976 through Madras University; M.A., (History) through Madras University; B.Ed. in the year 1987 through Annamalai University and M.Ed. during September 1990 through Annamalai University.

2. After completing Diploma in Teacher Education, he was appointed as Secondary Grade Teacher on 21.12.1982 and posted in the Panchayat Union Elementary School, Achalvadi, Harur Union through Employment Exchange. On 27.10.1983, he was transferred to Panchayat Union Elementary School, Tholanoor, Pappireddipatti Union on request. On 14.11.1988, the Third Respondent sanctioned one incentive increment for having acquired B.Ed., qualification. On 12.11.1989, the Third Respondent further sanctioned another incentive increment for having acquired M.A. (History) degree. On 4.12.2002, he was promoted as Elementary School Headmaster and posted at Panchayat Union Elementary School, Adikarapatti, Pappireddipatti Union. Later, on 27.11.2006, he

was promoted as Middle School, Kathiripuram, Pappireddipatti Union.

3. On 4.9.2010, he submitted a representation to the Third Respondent to sanction one set of incentive increment for having acquired M.Ed. qualification. In this regard, he relied on the incentive increment given to similarly placed persons for having acquired M.Ed. qualification in the other Panchayat Union. However, the Third Respondent rejected his request through his proceedings in Aa.Ni.Mu. No. 628/A2/10m dated 22.9.2010. However, the Order of Rejection was not sanctioned on him for long time and he was not aware of the Rejection Order. Only on 10.3.2011, the Order of Rejection, dated 22.9.2010 passed by the Third Respondent was served on him. In the meanwhile, he submitted a representation, dated 11.12.2010 to the Second Respondent reiterating the demand for sanction of additional incentive increment for having acquired M.Ed. qualification.

4. The Second Respondent forwarded his representation, dated 11.12.2010 to the Third Respondent to pass suitable orders in the light of the proceedings, dated 25.6.1994 of the First Respondent and the same had received by the Third Respondent on 26.8.2011. Thereafter, by means of the impugned Order, dated 4.10.2011, the Third Respondent rejected his request for sanctioning one set of additional incentive increments on the ground that he had already received two incentive increment and as such, he is not eligible for the third set of incentive increment. Being dissatisfied with the Orders, dated 22.9.2010 and 4.10.2011 of the Third Respondent, he has focussed the present Writ Petition before this Court.

5. The learned Counsel for the Petitioner relies on the Order of this Court, made in between M. Krishnakanthan v. District Elementary Educational Officer, Tiruvannamalai District, Tiruvannamalai and another, W.P. No. 18782 of 2008, dated 18.8.2008, wherein Paragraph 5 to 7, it is observed and held as follows:

"5. The learned Counsel appearing for the Petitioner as well as the learned Government Advocate appearing for the Respondents submitted that the matter in issue is covered by a Judgment of a Division Bench of this Court in W.A. Nos. 2604 to 2606 of 1999 batch and by Judgment, dated 20.6.2006, the Division Bench held as follows:

"All the Writ Petitions have been preferred by the Writ Petitioners, who are P.G. Assistants and Headmasters, for grant of incentive increments for which, they were entitled to for having acquired higher qualifications, such as Degree M.A., M.Sc. M. Phil. or M.Ed., etc.

2. The Order, dated 12.2.1999 in W.P. Nos. 17884 of 1998, etc., which was challenged in W.A. Nos. 2604 to 2606 of 1999 was passed by this Court by following its earlier Order, dated 18.4.1998 in a batch of Writ Petitions, i.e., W.P. Nos. 7840 of 1995 etc. The learned Government Advocate appearing for the Appellants is not able to bring to the Notice of this Court with regard to finality of the said order as to whether it was set aside or modified. Moreover, the learned Counsel appearing for the Respondents, has produced a copy of the Judgment

rendered by a Division Bench of this Court in W.A. No. 2307 of 1999, wherein, similar issue in regard to payment of incentive increments came up for consideration and after narrating all the relevant G.Os., relating to payment of incentive increments for acquiring higher qualifications, such as M.A., M.Sc., M. Phil., M.Ed., etc., the Bench has ultimately held as under:

6. Similarly after the said G.O., dated 9.12.1993, similar question came up for consideration before this Court in W.P. No. 20437 of 1993. This Court by Order, dated 2.3.1994 has upheld the payment of third set of two advance increments to the P.G. Assistants. Likewise, entitlement of P.G. Teachers for third set of two advance increments also came up for consideration before this Court in W.P. No. 8078 of 1994 and this Court by Order, dated 1.2.1995 has upheld the said Order. For the above reasons, we find that the Appellant is entitled to the benefit of G.O.Ms. No. 747, Finance Department, dated 18.8.1986 together with G.O.Ms. No. 1023, Education, Science and Technology Department, dated 9.12.1993. Hence, we see no merit in the order of the Second Respondent dated 29.11.1989 in withdrawing the third set of two advance increments given to the Petitioner. Accordingly, the Writ Appeal impugned proceedings, dated 29.11.1989 and the order of the learned Single Judge are set aside. No costs.

Considering all the above facts and circumstances, these Writ Appeals fail and the same are dismissed. No costs. However, the concerned Respondents in the respective Writ Petitions are directed to implement the Orders impugned in these Writ Appeals within eight weeks from the date of receipt of copy of this Order.

6. Following the above Division Bench decision, I have allowed W.P. Nos. 10510 of 2007, dated 7.12.2007 and W.P. No. 2528 of 2007, dated 20.12.2007 and granted incentive increment to M. Phil, degree for the Petitioners therein.

7. In the light of the Division Bench Judgments and the decisions of mind referred above, the impugned Order is quashed and the Writ Petition is allowed with a direction to the First Respondent to pass orders sanctioning incentive increment for M.Ed., Degree within a period of four weeks from the date of receipt of a copy of this Order. No costs. Consequently, connected M.P., is closed."

6. That apart, the learned Counsel for the Petitioner brings it to the Notice of this Court the Division Bench Judgment of this Court, dated 20.6.2006, in W.A. Nos. 2604 to 2606 of 1999, 1154 to 1156, 2150 & 1193 of 2000 and 995 to 1003 of 1999 whereby and whereunder in Paragraph 2 observed and laid down as follows:

2 The Order, dated 12.2.1999 in W.P. Nos. 17884 of 1998, etc., which was challenged in the W.A. Nos. 2604 to 2606 of 1999 was passed by this Court by following its earlier Order, dated 18.4.1998 in a batch of Writ Petitions, i.e., W.P. Nos. 7840 of 1995, etc. The learned Government Advocate appearing for the Appellants is not able to bring to the Notice of this Court with regard to finality of the said order as to whether it was set aside or modified. Moreover, the learned Counsel appearing for the Respondents, has produced a copy of the Judgment rendered by a Division Bench of this Court in W.A. No. 2307 of 1999, wherein

similar issue in regard to payment of incentive increments came up for consideration and after narrating all the relevant G.Os., relating to payment of incentive increments for acquiring higher qualifications, such MA., M.Sc. M. Phil., M.Ed., etc., the Bench has ultimately held as under:

6. similarly after the said CO., dated 9.12.1993, similar question came up for consideration before this Court in W.P. No. 20437 of 1993. This Court by Order, dated 2.3.1994 has upheld the payment of third set of two advance increments to the P.G. Assistants. Likewise, entitlement of P.G. Teachers for third set of two advance increments also came up for consideration before this Court in W.P. No. 6078 of 1994 and this Court by Order, dated 1.2.1995 has upheld the said order. For the above reasons, we find that the Appellant is entitled to the benefit of G.O.Ms. No. 747, Finance Department, dated 18.8.1986 together with G.O.Ms. No. 1023, Education, Science and Technology Department, dated 9.12.1993. Hence, we see no merit in the order of the Second Respondent dated 29.11.1989 in withdrawing the third set of two advance increments given to the Petitioner. Accordingly, the Writ Appeal impugned proceedings dated 29.11.1989 and the order of the learned Single Judge are set aside. No costs.

Considering all the above facts and circumstances, these Writ Appeals fail and the same are dismissed. No costs. However, the concerned Respondents in the respective Writ Petitions are directed to implement the Orders impugned in these Writ Appeals within eight weeks from the date of receipt of copy of this Order.

7. Per contra, the learned Additional Government Pleader contends that the teachers are eligible for only two incentive increments (4 advance increments) in their whole service for Higher Educational Qualifications, as per the G.O.Ms. No. 42, Education Department, dated 10.1.1969 and G.O.Ms. No. 1024, Education, Science and Technology Department, dated 9.12.1993. Further, the Petitioner was already sanctioned with one incentive increment (2 advance increments) for B.Ed., Higher Educational Qualification with effect from 14.11.1988 by the Assistant Elementary Educational Officer, Pappireddipatti (3rd Respondent herein). He was also sanctioned another incentive increment (2 advance increments) for M.A., Higher Educational Qualification with effect from 12.11.1989 by the Assistant Elementary Educational Officer, Pappireddipatti, while he was in service as secondary Grade Teacher. He also obtained promotion as B.T. Assistant. He was given promotion to the cadre of Primary School Headmaster with effect from 1.12.2002, and again given promotion to the cadre of B.Ed., Middle School Headmaster with effect from 27.11.2006 and he is now working as Middle School Headmaster. As he was sanctioned two incentive increments (4 advance increments) one for B.Ed., with effect from 14.11.1988 and another for M.A., with effect from 12.11.1989 while working in the Secondary Grade Teacher post, he is not eligible for 3rd incentive increment for his M.Ed. educational qualification while he was working as Secondary Grade Teacher.

8. As far as this Petitioner is concerned he stakes his claim for increment by

means of the Orders passed by this Court in various Writ Petitions as well as the Writ Appeals (including W.A. Nos. 2604 to 2606 of 1999, etc., batch, dated 20.6.2006). That apart, he claims that he is entitled to receive third incentive increment for having acquired M.Ed. According to him, the Government passed G.O.Ms. No. 42, Education Department, dated 10.1.1969, in which, the Headmaster category was included for grant of incentive increment, of course Headmaster of Government High School and Aided School. Even now, the Headmaster of Elementary School and Headmaster of Middle School are sanctioned incentive increment for higher qualification. As such, when the Headmasters are sanctioned incentive increment for possession of higher qualification in the various Schools across the State, denial of the incentive increment to him, who is working in B.T., cadre of Headmaster of Middle School is discriminatory and an illegal one.

9. In view of the fact that the Petitioner's case is squarely covered in terms of the Orders passed by this Court in W.A. Nos. 2604 to 2606 of 1999, etc., batch, dated 20.6.2006 and also this Court taking note of the fact that one Subramani was also granted the increment for having acquired M.Ed. qualification, it is quite evident that the Petitioner is similarly placed person and therefore, he is entitled to succeed in the considered opinion of this Court. Accordingly, this Court sets aside the impugned Order relating to the proceedings in Aa.Thi.Mu. No. 628/A2/10, dated 22.9.2010 and Na.Ka. No. 809/A1/2011, dated 4.10.2011 on the file of the Third Respondent and allows the Writ Petition without costs. Further, this Court also directs the Respondents to sanction one set of additional incentive increment to the Petitioner for having acquired M.Ed. qualification within a period of 8 weeks from the date of receipt of a copy of this Order. Consequently, connected Miscellaneous Petition is closed. No costs.