
(2009) 03 MAD CK 0048
In the Madras High Court
Case No : Writ Petition No. 42775 of 2006

S. Elangovan

APPELLANT

Vs

The Director of Elementary Education, The District
Elementary Educational Officer, The Chief Educational Officer
and The Assistant Elementary Educational (formerly A.E.O)
Officer

RESPONDENT

Date of Decision : 20-03-2009

Acts Referred:

Citation : (2009) 03 MAD CK 0048

Hon'ble Judges : N. Paul Vasanthakumar, J

Bench : Single Bench

Advocate : No appearance, for the Appellant; P. Subramanian, Additional
Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

N. Paul Vasanthakumar, J.—The prayer in the writ petition is to set aside the order in O.M. No. 5020-A1/94 dated 06.02.1995 by the

Assistant Educational Officer and direct the respondents to grant incentive increments for M.Ed., qualification from December 1989 and to grant

arrears of increments.

2. The case of the petitioner is that he joined as apprentice Teacher on 14.06.1971 and then he was appointed as regular Secondary Grade

Teacher on 01.06.1974 and he was promoted as Tamil Pandit on 18.08.1980. The petitioner passed M.A in the year 1983 and B.Ed., in 1985.

The petitioner was sanctioned two advance increments for passing M.A., by order dated 29.12.1984 and another set of increment for passing

B.Ed., degree by order dated 05.10.1987. However, he is not sanctioned

incentive increment for having M.Ed. degree. The petitioner was promoted as B.Ed., Grade Headmaster on 01.11.1994. He made representation requesting to sanction incentive increment for M.Ed. citing G.O.Ms. No. 1023 Education Department dated 9.12.1993 as per which incentive increment shall be sanctioned for M.Ed. qualification for the post of B.T. Assistant. The fourth respondent rejected the request by stating that the petitioner has already got four incentive increments. The said government order was set aside by the learned Judge.

4. The further case of the petitioner is that he acquired M.Ed. qualification in the year 1989 itself and hence, as per the above order issued by the Government, the petitioner is entitled to get incentive increment for M.Ed. qualification. However, the second respondent rejected the same by order dated 06.02.1995 stating that the third set of incentive increment is not permissible for M.Ed. Qualification. Against the rejection order dated 06.02.1995. The petitioner preferred an appeal to the first respondent on 06.04.1999, and no order having been passed the present Writ Petition with the above said prayer has been filed.

5. 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 20.06.2006, 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 12.02.1999 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 18.04.1998 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 09.12.1993, similar question came up for consideration before this Court in W.P. No. 20437 of 1993. This

Court by order dated 02.03.1994 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 01.02.1995 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 18.08.1986 together with G.O.Ms. No. 1023, Education, Science and Technology Department, dated

09.12.1993. 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 07.12.2007 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 mine 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.