

(2011) 08 MAD CK 0380

In the Madras High Court

Case No : Writ Petition No. 9507 of 2007

S. Karunanithi

APPELLANT

Vs

Arasu Rubber Corporation Ltd.

RESPONDENT

Date of Decision : 26-08-2011

Acts Referred:

Arasu Rubber Corporation Limited Service Rules — Rule 34
Constitution of India, 1950 — Article 14

Citation : (2011) 08 MAD CK 0380

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : M. Ravi, for the Appellant; R. Sivamanogaran, for the Respondent

Final Decision : Allowed

Judgement

The Honourable Mr. Justice Vinod K. Sharma, J.—The Petitioner has approached this Court, with a prayer for issuance of a Writ, in the nature of Certiorari, to quash the order dated 06.10.2007, declining the request of the Petitioner, for grant of advance increments, on account of additional qualification acquired by the Petitioner.

2. The Petitioner joined the Respondent / Arasu Rubber Corporation, which is a State Government undertaking, as a Computer Programmer on 05.09.1991. The Petitioner possessed the qualification of B. Sc., with Post Graduate Diploma in Computer Application.

3. During the service, the Petitioner acquired the qualification of Master of Computer Application in April 2001, and Master of Business Administration in 2006.

4. The service conditions of the Petitioner are governed by Arasu Rubber Corporation Limited Service Rules (hereinafter referred to as "the Rules").

5. Rule 34 of the Rules reads as under:

34. Pay and Allowances: Pay and allowances, such as Dearness Allowance, House Rent Allowance, Rural Incentive allowance, Project Allowance etc., will be paid to the Corporation employees at the rates applicable to State Government employees from time to time.

6. The Government of Tamil Nadu issued G.O. Ms. No. 825 Personnel and Administrative Reforms (FR.I) Department dated 06.07.1977, for granting advance increments to Government Officials with Post Graduate Management degree of recognized university. It was stipulated in the Government Order, that the person acquiring higher qualification of Master of Management will be entitled to two advance increments.

7. The Government of Tamil Nadu, thereafter, issued another G.O. Ms. No. 1195 Personnel and Administrative Reforms (FR.I) Department dated 27.10.1978, to include the qualification of Master of Business Administration also for being eligible for grant of advance increments.

8. While implementing IV Pay Commission, the Government again re-iterated, that grant of incentive increments, for higher qualification.

9. The representation of the Petitioner for grant of two advance increments, was placed before the Board of Directors. In support of the claim, the Petitioner relied on grant of two advance increments to two employees of different Corporations, who were granted benefit of advance increments, on acquiring higher qualification.

10. The Board rejected the representation of the Petitioner, by recording that there was no provision in the Service Rules, for grant of increments, and further the additional qualification acquired by the Petitioner was not in tune with the requirement of the job. The Petitioner was conveyed the decision of the Board vide impugned order dated 06.10.2007.

11. The Petitioner has challenged the impugned order, by contending that the impugned order cannot be sustained, as the Respondents have wrongly come to the conclusion, that the Rules of the Corporation, do not envisage the grant of two advance increments, on acquisition of higher qualification.

12. The Learned Counsel for the Petitioner referred to Rule 34 of the Rules, to contend that in view of Rule 34 of the Rules, the salary of the Petitioner is to be at par with the employees of the State Government, and further more. It is not only the pay and allowances, but House Rent Allowance, Rural Incentive Allowance, Project Allowance etc., are also to be paid to the employees of the Corporation. The contention of the Learned Counsel for the Petitioner, therefore, is that the Rule 34 of the Rules covers all type of benefits being to the Government employees.

13. The Learned Counsel for the Petitioner also contended, that this is how, the Rule was interpreted by the Corporation, while granting benefit of two advance increments to teachers working in the Corporation.

14. The Learned Counsel for the Petitioner, challenged the impugned order, being arbitrary, and result of misreading of Rule 34 of the Rules.

15. The Learned Counsel for the Respondent supported the Resolution of the Board, by contending that the orders, on which reliance has been placed by the Petitioner were not applicable in the case of the Petitioner. It is also the contention of the Learned Counsel for the Respondents, that the Petitioner is governed by the Rules and Regulations of his appointment, and there is no provision for grant of advance increments, for acquiring higher qualification, especially, when the qualification acquired has no relevance to the job of the Petitioner.

16. It is further contention of the Learned Counsel for the Respondents, that the decision of the Board, on which reliance has been placed by the Petitioner is with respect to the teachers, who were governed by the Government Orders and thus entitled to two advance increments. In that very resolution, the employee, who did not fall under the Government Order, was not granted the benefit.

17. On consideration this Court finds that the interpretation given by the Respondent to Rule 34 of the Rules cannot be accepted, as the Rule not only covers Pay and Allowances but also the benefits, which are granted under different Government Orders, as a special case to the employees working in the Government.

18. The Government Orders, on which reliance is placed by the Petitioner, is beneficial delegated Legislation, which has to be given a meaning to advance the object and not to defeat it. Further more, the Rule 34 of the Rules brings within it compass the allowances etc., which are paid to the Government employees, who are similarly situated, as that of the employees of the Corporation. The words used in the Rules are not restricted to "the pay and allowances", but word "etc.," has also been added, meaning thereby, that all type of benefits, which are given to the Government employees, are also to be given to the employees of the Corporation.

19. The contention of the Learned Counsel for the Respondents, that the Government Order with regard to advance increments, was only with regard to Education Department and Teachers also cannot be accepted, as by way of clarification, the degree of Management was included for grant of advance increments, which is not the qualification for the teacher. Once the Government has decided to give a particular benefit to the employees, on acquiring higher qualification, and the Rules have been made applicable to the employees of the Corporation, the impugned order cannot be sustained, as it is based on the wrong presumption that Rule 34 of the Rules does not cover the case of grant of advance increment on acquisition of higher qualification. The impugned order, therefore, being totally arbitrary, is hit by Article 14 of the Constitution of India, which cannot be sustained in law.

20. Consequently, this writ petition is allowed, the impugned order is set aside,

writ in the nature of mandamus is issued, directing the Respondents to grant advance increments to the Petitioner in terms of the Government Orders for having acquired Degree of Business Administration while in service. The necessary order along with consequential benefits be passed preferably within two months of receipt of certified copy of this order.