

A. Mary Vs. the Director of Elementary Education and ors.

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Court : Chennai

Decided On : Apr-23-2012

Judge : D. Hariparanthaman, J.

Appeal No. : W.P.(MD)No.6043 of 2010 and M.P.(MD)No.1 of 2010

Appellant : A. Mary

Respondent : The Director of Elementary Education and ors.

Advocate for Def. : Mr. B. Pugalendhi, Adv.

Advocate for Pet/Ap. : Mr. Md. Imran, Adv.

Judgement :

ORDER

1. The petitioner was in possession of B.A (Tamil) and also B.Ed., at the time of appointment as Secondary Grade Teacher on 25.09.1987. Though she is having higher qualification, pursuant to G.O.Ms.No.539 Education (M1) Department dated 21.04.1986, she was appointed as Secondary Grade teacher.

2. The petitioner thereafter passed M.Ed., during November 1995. She claimed incentive increments for M.Ed., but the same was rejected by the impugned order dated 15.03.2010 by the third respondent. Challenging the said impugned order, the petitioner has come before this Court by way of this writ petition.

3. The third respondent has filed a Counter Affidavit, refuting the allegations made by the petitioner.
4. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.
5. The learned counsel for the petitioner submits that as per G.O.Ms.No.539 Education (M1) Department dated 21.04.1986, the petitioner could not seek for incentive increments for higher qualification viz., B.A., B.Ed.,, but she is not precluded from seeking the incentive increments for passing M.Ed. The learned counsel also relied on the Judgment of a Division Bench of this Court in R. PREMAKUMARI .VS.. STATE OF TAMIL NADU (2008 (5) M.L.J 1349).
6. On the other hand, the learned Special Government Pleader has strenuously argued that the petitioner, having agreed at the time of her appointment as Secondary Grade teacher not to claim incentive increments for her higher qualification, cannot now be entitled to seek incentive increments.
7. I have carefully considered the rival submissions of the learned counsel for the petitioner and the learned Special Government Pleader.
8. The petitioner was in possession of qualification for appointment to the post of B.T.Assistant, but, she was appointed only as Secondary Grade teacher on 25.09.1987 pursuant to G.O.Ms.No.539 Education (M1) Department dated 21.04.1986.
9. The relevant portion from the said Government Order is extracted hereunder:-

(2)(iii) B.T., or Tamil Pandits appointed to a Secondary Grade Teachers vacancy shall be eligible to draw the Scale of Pay as applicable to the post of Secondary Grade Teacher and that they are not eligible to draw any incentive increments or higher scale of pay by virtue of their possessing higher qualification etc.
10. As per the aforesaid Government Order, the petitioner is not entitled to claim incentive increments for her higher qualification viz., B.A., B.Ed., The B.T. Assistants shall not be appointed against the Secondary Grade vacancy. In view

of the dearth of qualified persons, pursuant to G.O.Ms.No.539 Education (M1) Department dated 21.04.1986, B.T. Assistants were appointed in Secondary Grade Post. The Government Order contemplates that the B.T or Tamil Pandits appointed to a Secondary Grade vacancy shall not claim incentive increment for higher qualification viz., graduation and B.Ed.,

11. In this case, the petitioner is not claiming incentive increments for B.A., and B.Ed., On the other hand, she is claiming incentive increment for M.Ed., which she studied after she joined as Secondary Grade Teacher. Hence, in my considered view, the impugned order, which refuses to grant incentive increments, on the ground that the claim for incentive increment is contrary to G.O.Ms.No.539 Education (M1) Department dated 21.04.1986, has no basis.

12. Further more, as rightly contended by the learned counsel for the petitioner, in R. PREMAKUMARI's case (cited supra), the Division Bench of this Court has held that even the teachers who acquired higher qualification at the time of appointment is entitled to incentive increments. The relevant paragraph is extracted hereunder in this regard:- 9. That apart, if the relevant G.Os are examined carefully, it can be safely concluded that the G.Os in reality do not intend to lay down in the manner it has been now concluded by the learned Single Judge. We have already extracted the relevant portions of the G.Os. The underlined portion of G.O.Ms.No.42 dated 10.01.1969 indicates that if a person possessing higher qualification enters into service, his initial pay may be fixed by giving advance increments. Similarly, in the subsequent G.O.Ms.No.747 dated 18.08.1986, paragraph 2 makes it clear that the P.G. teachers and Headmasters of Higher Secondary Schools who possess or acquire Post Graduate qualification in education i.e., M.Ed., Degree shall be granted two advance increments in the scales of pay admissible to them. It is nowhere contemplated in the G.Os that the incentive increments would be given only to those who acquired subsequently the qualification, but it would be given to all those who either possess, which means the degree is obtained at the time of entering into service or acquire, which means the degree is obtained after entering into service. Even the subsequent G.Os or the clarifications, nowhere indicate that in order to be eligible for getting incentive increment, the person has to acquire such higher qualification only after entering into service and not otherwise.

Therefore, we are unable to accept the conclusion of the learned single Judge that a person who enters into service after having acquired a higher qualification, is not entitled to get incentive increments.

Applying the above said principle, I am of the view that the impugned order is liable to be quashed.

13. In the circumstances, the impugned order is quashed and the respondents are directed to grant incentive increment to the petitioner for having passed M.Ed., degree within a period of eight weeks from the date of receipt of a copy of this order.

14. Accordingly, this writ petition is allowed. However, there will be no order as to costs. Consequently, the connected M.P.(MD)No.1 of 2010 is closed.

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