

S.Rajaram Vs. the Director and ors.

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Court : Chennai

Decided On : Apr-17-2012

Judge : D.Hariparanthaman, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : W.P.(MD).No.12816 of 2011

Appellant : S.Rajaram

Respondent : The Director and ors.

Advocate for Pet/Ap. : Mr.N.R.Balaji, Adv.

Judgement :

PRAYER

Petition filed under Article 226 of the [Constitution of India](#) for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the second respondent in his proceedings Omu.No. 4952/A2/2011, dated 12.08.2011 and quash the same and further direct the respondents to give two incentive increments as per the order dated 10.08.2009 passed in W.P.No. 6691 of 2009 on the file of this Hon'ble Court.

ORDER

1. The petitioner, seeks a writ of Certiorarified Mandamus to quash the impugned order passed by the second respondent, dated 12.08.2011 and further direct the respondents to give two incentive increments as per the order dated 10.08.2009 passed in W.P.No. 6691 of 2009 on the file of this Hon'ble Court.

2. Heard both sides.

3. The petitioner is working as a Vocational Instructor in the third respondent School from the year 2001 and at the time of joining the School, he was in possession of B.Sc., Agri and thereafter, he obtained M.Sc., in the year 2001 and B.Ed., in the year 2008. The petitioner sought for incentive increments for acquiring higher qualifications. He filed a Petition in W.P.(MD).No. 6691 of 2009 seeking to provide incentive increments. That Writ Petition was disposed of by this Court along with other Writ Petitions on 10.08.2009, directing the respondents to give two incentive increments to the petitioner.

4. The petitioner made a representation, dated 02.04.2011, to the second respondent through the third respondent, seeking incentive increments, as he was not given incentive increments in spite of the order, dated 10.08.2009. Since no action was taken, the petitioner filed a Writ Petition in W.P.(MD).No. 7126 of 2011, seeking for a direction to dispose of his representation, dated 02.04.2011. This Court has passed an order, dated 01.07.2011 in W.P.(MD).No. 7126 of 2011, directing the Chief Educational Officer, Theni District, to dispose of the representation, dated 02.04.2011, on merits within a period of six weeks.

5. In the said circumstances, the impugned order was passed by the second respondent stating that the petitioner could be given incentive increments from the date of issuance of the Government Order in G.O.Ms.No. 240, School Education Department, dated 18.08.2010.

6. The petitioner has filed the present Writ Petition to quash the said order, dated 12.08.2011 of the second respondent in so far as denying the incentive increments from the date of acquiring the higher qualifications and sought for incentive increments from the date of acquiring higher qualification.

7. No counter affidavit is filed by the respondents.

8. The learned Special Government Pleader appearing for the respondents based on instructions, made his submissions that the petitioner is entitled to incentive increments from the date of issuance of the Government Order as per G.O.Ms.No. 240, School Education Department, dated 18.08.2010 and not from the date of obtaining the higher qualifications. It is stated in the Government Order that the Vocational Instructors would be entitled to incentive increments only from the date of issuance of the order. Hence, he cannot be given from the date of obtaining of higher qualifications.

9. On the other hand, the learned counsel for the petitioner submits that in similar matters, this Court has passed an order, setting aside that portion of G.O.Ms.No. 240, School Education Department, dated 18.08.2010, restricting the payment of incentive increments from the date of issuance of the order, instead of granting from the date of obtaining of the higher qualification.

10. I have considered the submissions made on either side.

11. So many Vocational Instructors were granted incentive increments for acquiring higher qualifications. However, due to audit objections, the incentive increments were sought to be recovered on the ground that there was no specific Government Order granting incentive increments in the case of Vocational Instructors, while specific Government Orders are there in the case of other category teachers.

12. In these circumstances, this Court passed an order, dated 18.12.2008 in W.P.(MD).Nos. 5787 of 2007 and batch cases holding that the Vocational Instructor are also entitled to incentive increments as given to other teachers for acquiring higher qualifications. Paragraph No. 9 of the said order, dated 18.08.2010, is extracted hereunder:-

9. The Supreme Court in the order, dated 25.04.1997 considered a similar issue in the case of V.Gangaram Vs. The Regional Joint Director and others and held that the teachers on improvement of their qualification are entitled to get advance

increments other than the prescribed qualifications. Government Order issued in G.O.Ms.No. 42 Education Department, dated 10.01.1969 also states that the Government accepted the principle that incentive payments and awards should be given to teachers in schools who acquire higher educational qualification. Since the petitioners have acquired M.Com. and B.Ed./M.Ed. degrees which are higher than the prescribed qualification of B.Com. degree to the Vocational Instructor post, the grant of incentive increment by the respondents earlier is perfectly in order and the impugned order passed by the second respondent holding that the Vocational Instructor post is not included in G.O.Ms.No. 42, dated 10.01.1969 and therefore, the petitioners are not entitled to get the said benefits cannot be sustained. The petitioners having improved their qualification for which incentive increment having been sanctioned in accordance with the Government Order, the same cannot be withdrawn and no recovery could be ordered. Hence the impugned orders are set aside. The Writ Petitions are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

13. After the order, dated 18.12.2008 in W.P.(MD).Nos. 5787 of 2007 and batch cases, the Government issued G.O.Ms.No. 240, School Education Department, dated 18.08.2010, granting incentive increments to the Vocational teachers also for acquiring higher qualifications. But the Government Order states that the incentive increments shall be given from the date of issuance of the said Government Order. The impugned order is passed based on the said G.O.Ms.No. 240, School Education Department, dated 18.08.2010.

14. G.O.Ms.No. 240, School Education Department, dated 18.08.2010, was questioned by the Vocational teacher in W.P.(MD).No. 6691 of 2009, in so far restricting the payment of incentive increments from the date of issuance of the Government Order. This Court on 02.04.2011 allowed the Writ Petition in W.P.(MD).No. 6691 of 2009 and held that the Vocational teachers shall also be paid incentive increments from the date of acquiring higher qualification as in the case of other teachers.

15. It has been categorically held that the Vocational teachers alone cannot be discriminated in the matter of granting incentive increments. It is not in dispute that

other teachers, such as Secondary Grade Teachers, BT Assistants and PG Assistants are granted incentive increments from the date of acquiring higher qualification. If that is so, there is no reason to deny the same benefit to the Vocational teachers and in their case alone, the incentive increments shall not be restricted from the date of issuance of the Government Order. Hence, I am of the view that the impugned order, dated 12.08.2011, granting incentive increments from 18.08.2010 is not correct. Accordingly, the respondents 1 and 2 are directed to grant incentive increments to the petitioner from the date of acquiring higher qualifications within a period of six weeks from the date of receipt of a copy of this order. The Writ Petition is allowed accordingly. No costs.

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