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WP No. 23852 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-06-2026

CORAM

THE HON'BLE MS. JUSTICE P.T. ASHA

**WP No. 23852 of 2026
and WMP Nos.25896 and 25897 of 2026**

R.Prema
W/o.C.Murugesan
East street, Karuppur post
Madukkur, Pattukottai Taluk
Tanjavur-614 903.

..Petitioner(s)

Vs

1. The State of Tamil Nadu
Rep by its secretary to Government
School Education Department
Fort St.George,
Chennai-600 009.
2. Principal Accountant General (A and E)
No.361, Anna Salai,
Chennai-600 018.
3. The Block Educational Officer
Madukkur,
Pattukottai Taluk
Tanjavur-614 903.

..Respondent(s)

PRAYER: Writ Petition has been filed under Article 226 of Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the impugned order passed by the 2nd respondent in No.E15/5/11523743/ADK dated 09.03.2026 and quash the same and direct the 2nd and 3rd respondents to reinstated the original pensionary benefits to the petitioner as to 2 incentive increments (Four increments) for her qualification of M.A., B.Ed Higher qualification.



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For Petitioner(s):

Mr.B.Sandeep Harish

For Respondent(s):

Mr.AR.Balaji, Government Advocate for R1,R3
Mr.P.T.Rishikesh, Standing Counsel for R2

ORDER

The writ petition is filed for the below relief:

"calling for the records of the impugned order passed by the 2nd respondent in No.E15/5/11523743/ADK dated 09.03.2026 and quash the same and direct the 2nd and 3rd respondents to reinstate the original pensionary benefits to the petitioner as to 2 incentive increments (Four increments) for her qualification of M.A., B.Ed Higher qualification".

2. The brief facts which has culminated in the filing of this writ petition are set out below:

2.1. It is the case of the petitioner that she was a retired Tamil Teacher who was again reinstated into service *vide* order dated 30.06.2025 issued by the third respondent. Since she had pursued her B.Ed in Tamil and M.A.Tamil in service, she had been granted two sets of incentive increments and she had received the same till her retirement and also during her reinstatement period and also in her pensionary benefits. While so, the second respondent passed an impugned order dated 09.03.2026 stating that B.Ed is a basic qualification for which incentive increment is not eligible. Aggrieved by the same, the petitioner



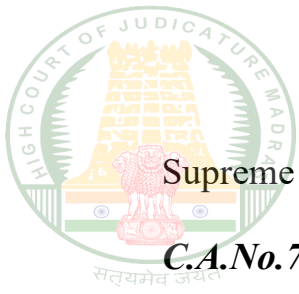
is before this Court.

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3. Heard the learned Counsel on either side and perused the materials available on records.

4. From the records, it is clear that the petitioner who is a Secondary Grade Teacher had pursued her B.Ed., Tamil from Sastra University, Thanjavur, in the academic year 2013-2015 and M.A.Tamil from Manonmaniam Sundaranar University for the academic year 2017-2018, after obtaining necessary permission for her superior authorities. After she had secured two degrees, she had been granted incentive increment from 04.12.2014 for having qualified with B.Ed. Tamil. Earlier, the second respondent has passed an order dated 08.08.2025 reducing the increment to two incentive increments as against the four incentive increments. Thereafter, by the impugned order dated 09.03.2026, the incentive increment has been rejected by stating that B.Ed degree is a basic qualification and therefore, incentive increment need not be given for obtaining the B.Ed degree and the directions have been issued to refix the pay by cancelling the incentive increments which has been done without issuing notice to the petitioner.

5. Admittedly, the grant of incentive increment was not on account of any misrepresentation or fraud being committed by the petitioner and the Hon'ble

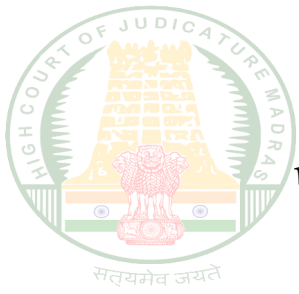


Supreme Court, in the case of **Thomas Daniel vs. State of Kerala and Ors** in **C.A.No.7115 of 2010**, had observed as follows:

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“(9) This Court in a catena of decisions has consistently held that if the excess amount was not paid on account of any misrepresentation or fraud of the employee or if such excess payment was made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order which is subsequently found to be erroneous, such excess payment of emoluments or allowances are not recoverable. This relief against the recovery is granted not because of any right of the employees but in equity, exercising judicial discretion to provide relief to the employees from the hardship that will be caused if the recovery is ordered. This Court has further held that if in a given case, it is proved that an employee had knowledge that the payment received was in excess of what was due or wrongly paid, or in cases where error is detected or corrected within a short time of wrong payment, the matter being in the realm of judicial discretion, the courts may on the facts and circumstances of any particular case order for recovery of amount paid in excess.

*(10) In **Sahib Ram v. State of Haryana and Others** this Court restrained recovery of payment which was given under the upgraded pay scale on account of wrong construction of relevant order by the authority concerned, without any misrepresentation on part of the employees. It*



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was held thus :

“5. Admittedly the appellant does not possess the required educational qualifications. Under the circumstances the appellant would not be entitled to the relaxation. The Principal erred in granting him the relaxation. Since the date of relaxation, the appellant had been paid his salary on the revised scale. However, it is not on account of any misrepresentation made by the appellant that the benefit of the higher pay scale was given to him but by wrong construction made by the Principal for which the appellant cannot be held to be at fault. Under the circumstances the amount paid till date may not be recovered from the appellant. The principle of equal pay for equal work would not apply to the scales prescribed by the University Grants Commission. The appeal is allowed partly without any order as to costs.”

(11) In Col. B.J. Akkara (Retd.) v. Government of India and Others this Court considered an identical question as under:

“27. The last question to be considered is whether relief should be granted against the recovery of the excess payments made on account of the wrong interpretation/understanding of the circular dated 7-6-1999. This Court has consistently granted relief against recovery of excess wrong payment of emoluments/allowances from an employee, if the following conditions are fulfilled (vide Sahib Ram v. State of Haryana [1995 Supp (1) SCC 18 : 1995 SCC (L&S) 248], Shyam Babu Verma v. Union of India [(1994) 2 SCC 521 : 1994 SCC (L&S) 683 : (1994) 27 ATC 121], Union of India v. M. Bhaskar [(1996) 4 SCC 416 : 1996 SCC (L&S) 967] and V. Gangaram v. Regional Jt. Director [(1997) 6 SCC 139 : 1997 SCC (L&S)



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1652]):

(a) The excess payment was not made on account of any misrepresentation or fraud on the part of the employee.

(b) Such excess payment was made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order, which is subsequently found to be erroneous.

Therefore, after relying upon the above said judgments, the Hon'ble High Court ultimately allowed the appeal and quashed the impugned order.

6. In the instant case also, the petitioner have not committed any fraud or misrepresentation and the respondents have also not given any prior notice before the incentive increments were cancelled and pay refixation. Therefore, the incentive increments cannot be recovered from the petitioner and the impugned order cannot be sustained. Therefore, the impugned order stands quashed and in the result, the writ petition is allowed as prayed for. Connected miscellaneous petitions stand closed. No costs.

29-06-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

ssa



To

1. The Secretary to Government
The State of Tamil Nadu
School Education Department
Fort St. George,
Chennai-600 009.

2. Principal Accountant General (A and E)
No.361, Anna Salai,
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P.T.ASHA, J.

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