



W.A(MD)No.700 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2026

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI
and
THE HONOURABLE MR. JUSTICE N.DILIP KUMAR

W.A(MD)No.700 of 2021
and
CMP (MD) No.3047 of 2021

N.Birunthavanan

: Appellant

Vs.

1. The District Elementary Educational Officer,
Dindigul.

2. The Assistant Elementary Educational Officer,
Natham Union,
Dindigul District.

... Respondents

Prayer: This Writ Appeal is filed under Clause 15 of Letters Patent Act, against the order passed by this Court in W.P.(MD)No. 1840 of 2014 dated 16.08.2019.

For Appellant : Mr. S.Muthuraman

For Respondents : Mr.M.Mahaboob Athiff,
Special Government Pleader



W.A(MD)No.700 of 2021

JUDGMENT

(Judgment of the Court was made by **M.DHANDAPANI.J.**)

This Intra-Court Appeal has been filed challenging the order passed by the learned Single Judge of this Court in W.P.(MD)No.1840 of 2014, dated 16.08.2019.

2. The learned counsel for the appellant would submit that the writ petitioner filed the writ petition for grant of third incentive increment and the same was dismissed by this Court on 16.08.2019. Challenging the same, the present writ appeal has been filed by the appellant.

3. The learned counsel for the appellant would fairly submit that during the pendency of the present appeal, the issue involved in the present case has been settled by a Full Bench of this Court in ***S.Kalaiselvi v. The State of Tamil Nadu [W.P.No.27261 of 2019 & batch]***, dated 11.06.2026, wherein the grant of the third incentive is held to be impermissible. The relevant portion of the judgment is extracted hereunder:



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“Reference was made in view of the fact that two contradictory views have been taken by two Division Benches, i.e., one in W.A. (MD) No.435 of 2017 dated 25.04.2017 and the other in W.A. (MD) No.1429 of 2022 dated 24.01.2024. Yet another Division Bench passed an order in W.A.(MD) No.2124 of 2023 and batch dated 20.12.2023. In the said judgment, it was opined that one of the basic qualifications for promotion to the post of Headmasters in Middle School is B.Ed., therefore, the basic qualification cannot be construed as a higher qualification for the purpose of granting incentive increment. In view of contradictory views taken by different Division Benches in the matter of grant of incentive increment, learned Single Judge vide order dated 05.04.2024 referred the matter for constitution of a Full Bench to decide the issue involved in the matter, pursuant to which, Hon’ble Chief Justice constituted this Full Bench to decide the following reference:

“10....whether the Middle School Headmasters are entitled to claim incentive increment for acquiring B.Ed. Qualification under the Scheme of incentive increment introduced in G.O.Ms.No.42, Education Department, dated 10.01.1969 or not?

2. Heard the learned counsels for the respective parties.

*3. Reference has been made pursuant to the Scheme of incentive increment introduced by the Government in **G.O.Ms.No.42, Education Department, dated 10.01.1969**. The said Government Order as of now is not in force. Therefore, the question of considering the case of Government employees for grant of incentive increment under the said **G.O.Ms.No.42** does not arise at all.*



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4.The concept of incentive increment was introduced by Government to encourage Government employees to possess higher qualifications for efficient performance of their public duties. Since a large number of employees have possessed higher qualifications than that of qualifications prescribed to the post, they hold and degrees are obtained through correspondence courses / Distance Education mode and various other methods of education, Government at one point found that financial burden is huge and taken a policy decision to cancel the scheme of incentive increment for acquired higher qualification.

5. The Scheme of incentive increment is a concession and not a part of service condition. Concession and service conditions are distinguishable. Service conditions provide vested rights to Government employees, but concessions are not. Various concessions are extended by Government then and there to encourage Government employees for effective performance of public duties and such concessions may be withdrawn by Government through change of policy or by cancelling concession, as the case may be, in public interest or due to administrative reasons or on account of financial constraint.

6.Let us now consider the Scheme of incentive increment and pertinently, the scheme of advance incentive increment to Government servants for acquiring higher qualification was cancelled by Government in **G.O.Ms.No.37 Personnel and Administrative Reforms (FR-IV) Department dated 10.03.2020.** Paragraph No.6 (vi) of the said Government Order reads as under:

“6 (vi). The cases of Government servants who have acquired higher qualification prior to issue of this general order; and not



sanctioned with advance increments be examined separately as per the previous orders issued, if any, by the administrative department concerned and with reference to the posts specified in that order and if he is otherwise qualified, then the advance increment may be sanctioned by the administrative department concerned after obtaining concurrence of Finance department. If no previous orders were issued by any of the department concerned, then they are not eligible for sanction of any advance increments for passing higher qualification irrespective of the post held / degree acquired.”

7. Inter Department doubts have been raised and therefore, it necessitated Government to issue clarifications in G.O.Ms.No.116 Personnel and Administrative Reforms (FR-IV) Department dated 15.10.2020. In order to neutralize the situation and to ensure that grant of incentive increment is harmonized, Government issued G.O.(Ms) No.95, Human Resources Management (FR-IV) Department dated 26.10.2023. Paragraph Nos.7 and 8 of the said Government Order are extracted hereunder:

“7. Now, it has come to the notice of the Government that substantial number of claims are pending from candidates with higher educational qualifications. Hence, to expeditiously process and bring clarity to the scheme of granting incentive, in partial modification of the orders issued in the Government Order second and third read above and clarifications issued in the Government Letter fourth read above, the cut-off date for sanction of advance increments for having acquired higher educational qualifications ended and the new scheme of sanction of lumpsum amount is



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ordered to take effect from 10.03.2020. Thus, the clarification issued in Government Order second read above and the Government Letter fourth read above are harmonized to ensure that, all pending applications as on 10.03.2020 and claims made subsequently for sanction of benefits for having acquired higher educational qualifications shall be disposed as per this new scheme of granting lumpsum incentives only and not the earlier scheme of granting increments in salary. This principle would ensure expeditious disposal of all pending claims, and also maintain parity and equal treatment between the claims pending as on date and for the persons acquiring higher educational qualifications in future also.

8.The Government, therefore, directs that the Government Servants, who acquire additional educational qualifications including those who have already submitted applications seeking Incentive therefore, shall henceforth be granted only with one-time lumpsum as ordered in the Government order third read above, and the following guidelines are issued:-

(i) The incentive will not be available for the qualifications which are laid down as essential or desirable qualifications in the recruitment rules for the post.

(ii) No incentive shall be allowed for acquiring higher qualification purely on academic or literary subjects. The acquisition of the qualification should be directly related to the functions of the post held by him/her, or to the functions to be performed in the next higher post. There should be direct nexus between the functions of



the post and the qualification acquired and that it should contribute to the efficiency of the government servant.

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(iii) The quantum of incentive will be uniform for all posts, irrespective of their classification or grade or the Department.

(iv) The incentive shall not be admissible where the Government servant is sponsored by the Government or he/she avails study leave for acquiring the qualification.

(v) The incentive would be given only for higher qualification acquired after induction into service.

vi) No incentive would be admissible if an appointment is made in relaxation of the educational qualification. No incentive would be admissible if employee acquires the requisite qualification for such appointment at a later date.

(vii) The qualifications meriting grant of incentive should be recognized by University Grants Commission, respective regulatory bodies like All India Council for Technical Education (AICTE) etc. set-up by Central State Government or recognized by the Government.

(viii) The incentive shall be limited to maximum two times in an employee's career, with a minimum gap of two years between successive grants.

(ix) The Government servant should prefer the claim within six



months from the date of acquisition of the higher qualification in respect of future claims.

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(x) The claims already rejected by the Departments concerned are not eligible for grant of lumpsum amount

(xi) The lumpsum amount shall be granted only for those who have acquired higher qualification and not sanctioned with advance increment till date.

(xii) The Administrative Departments, shall issue orders separately in this regard, after examining the existing qualifications prescribed in the Service Rules, the duties, roles and responsibilities of the relevant posts, additional educational qualifications required for performing the relevant duties, the ways in which the higher educational qualifications for the said posts would be beneficial to the development activities of the Department and to the Government by and large and then issue orders in consultation with the Human Resources Management and Finance Departments.”

*8. A holistic reading of the New Policies implemented through **G.O.Ms.No.37 Personnel and Administrative Reforms (FR-IV) Department dated 10.03.2020** and **G.O.(Ms) No.95, Human Resources Management (FR-IV) Department dated 26.10.2023** amplifies that employees, who were sanctioned advance incentive increment prior to issuance of **G.O.Ms.No.37 dated 10.03.2020**, shall be protected. If at all any recovery is made due to Audit objection or otherwise, those recoveries of excess pay alone are*



also set aside in view of the fact that recovery of excess pay after long years from the date of sanction would result in hardship to employees.

9. As far as applications pending prior to 10.03.2020, wherein advance increments are not sanctioned and applications submitted after the cut off date of 10.03.2020 are concerned, all such applications are to be strictly considered in accordance with the new scheme implemented by Government vide **G.O.(Ms) No.95, Human Resources Management (FR-IV) Department dated 26.10.2023**. Even in respect of applications submitted prior to the cut off date of 10.03.2020, no right accrued to employees and therefore, such applications are also to be considered in terms of **G.O.(Ms) No.95, Human Resources Management (FR-IV) Department dated 26.10.2023**.

10. The above directions are issued with reference to the new incentive increment Scheme introduced in **G.O.(Ms) No.95, Human Resources Management (FR-IV) Department dated 26.10.2023**. As far as reference made to this Full Bench is concerned, the old incentive increment policy based on **G.O.Ms.No. 42, Education Department, dated 10.01.1969** was cancelled and is not in force. Therefore, no Government employee is entitled to claim the benefit of incentive increment based on the cancelled incentive increment policy. All such employees are at liberty to submit applications, if not already submitted, claiming incentive increment in tune with the new incentive increment policy implemented in **G.O.(Ms) No.95, Human Resources Management (FR-IV) Department dated 26.10.2023**.

11. Accordingly, Reference made to this Full Bench is answered. Registry is directed to list all the pending cases before concerned



W.A(MD)No.700 of 2021

Courts holding roster. This Full Bench requests early disposal of all the cases.”

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4. In view of the above, this writ appeal stands disposed of in terms of the law laid down by the Full Bench of this Court. No costs. Consequently, the connected miscellaneous petition is closed.

[M.D.I.,J] [N.D.K.,J]

13.08.2026

Index: Yes/No
Internet: Yes/No
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