



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2015

CORAM :

WEB COPY THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition (MD) Nos.18471 and 18472 of 2014

1.R.Kavitha ... Petitioner in W.P.No.18471 of 2014
2.P.Sargunadevi ... Petitioner in W.P.No.18472 of 2014

Vs.

- 1.The Secretary to Government,
School Education,
Fort St., George,
Chennai-9.
- 2.The Director of School Education,
College Road,
Chennai 6.
- 3.The Additional Assistant Elementary Educational Officer,
Assistant Elementary Educational Office,
Paramakudi, Ramanathapuram District.... Respondents in both W.Ps
- 4.The Headmaster
Panchayat Union Middle School,
Melaperungarai, Paramakudi,
Ramanathapuram District. .. 4th respondent in W.P.No.18471 of 20 14
- 5.The Headmaster
Panchayat Union Middle School,
Keelaperungarai, Paramakudi,
Ramanathapuram District. .. 4th respondent in W.P.No.18472 of 20 14

Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 3rd Respondent in A.D.M. No. 1574/A1/2014 & 1576/A1/2014 dated 05.09.2014 and quash the same as illegal and consequently direct the Respondents to sanction 3rd incentive increment for possessing M. Phil. to the petitioner in light of the order of this Honourable Court in W.P. No. 2528 of 2007 and W.P. No. 9200/2011 and in the light of G.O.Ms. No.17 School Education Department dated 08.01.2008 and G.O. Ms. No.209 School Education Department dated 08.07.2010.

For Petitioners : Mr.S.Govindan

For Respondents
(In both W.Ps.)

: Mr.V.Muruganandam,
Additional Government Pleader.

**COMMON ORDER**

The petitioners are aggrieved against the order of the third respondent dated 05.09.2014 whereby the request for sanction of third incentive increment for possessing M.Phil degree was rejected on the ground that as per G.O.Ms.No.1024, dated 09.12.1993 a teacher is entitled to only two incentive increments and that the third incentive increment is not entitled to.

2.It is the case of the petitioners that they have passed M.Phil degree during the course of their service. The said fact is not disputed by the other side. Therefore, the only question is to be decided as to whether the petitioners are entitled to third incentive increment when admittedly, they were given two incentive increments earlier for possessing qualification by virtue of G.O.Ms.Nos.1023 and 1024 dated 09.12.1993 as stated in the impugned order.

3.Learned counsel for the petitioners submitted that as per the Government Order passed in G.O.Ms.No.1023, dated 09.12.1993, apart from two advance increments for passing M.A. or M.Sc., a B.T. Assistant is eligible two advance increments for possessing M.Ed., qualification and that the maximum of advance increments which a teacher can get the incentive increment shall be four in his entire service. He has also brought to the notice of this Court that the very same issue was considered in the W.P.No.2528 of 2007, dated 20.12.2007 where the learned single Judge of this Court has allowed the claim of the petitioner therein directing the authorities to grant the third incentive increment.

4.Per contra, learned Additional Government Pleader for the respondents submitted that the petitioners are entitled to only two incentive increments whereas the third incentive increment for possessing M.Phil degree cannot be granted.

5.I am unable to accept the contention of the learned Additional Government Pleader for the respondents on the reason that the very same issue was already considered by this Court and decided against such contention in W.P(MD)No.2528 of 2007 by order dated 20.12.2007, wherein the learned Judge has allowed the writ petition by following the Hon'ble Division Bench made in W.A.No.2307 of 1999, dated 20.06.2006. The order reads as follows:

"The prayer in the writ petition is to quash the order declining to sanction incentive increment for possessing M.Phil., degree on the ground that the petitioner was already sanctioned with two incentive increments.

2.The learned counsel for the petitioner as well as the learned counsel for the respondents submit that the matter in issue as to whether a teacher can get more than two incentive increments during his service was decided by a Division Bench of this Court in W.A.No.2604 to 2606 of 1999, etc., and following the earlier judgment of a Division Bench of this Court in Writ



Appeal No.2307 of 1999, the Division Bench by judgment dated 20.06.2006 held as follows:-

"6. Similarly after the said G.O., dated 09.12.1993, similar question came up for consideration before this Court in W.P.No.20437 of 1993. This Court by order dated 02.03.1994 has upheld the payment of 3rd set of two advance increments to the P.G.Assistants. Likewise, entitlement of P.G.Teachers for 3rd set of two advance increments also came up for consideration before this Court in W.P.No.8078 of 1994 and this Court by order dated 01.02.1995 has upheld the said order. For the above reasons, we find that the appellant is entitled to the benefit of G.O.Ms.No.747 Finance Department, dated 18.08.1986 together with G.O.Ms.No.1023, Education, Science and Technology Department dated 09.12.1993. Hence, we see no merit in the order of the 2nd respondent, dated 29.11.1989 in withdrawing the 3rd set of two advance increments given to the petitioner. Accordingly, the Writ Appeal impugned proceedings dated 29.11.1989 and the order of the learned single Judge are set aside."

3. Following the said judgments of the Division Bench, the impugned order is set aside and the second respondent is directed to sanction and pay the incentive increment for possessing M.Phil degree by the petitioner from 18.01.1997 within a period of six weeks from the date of receipt of a copy of this order".

6. The said order was challenged in W.A.(MD)No.426 of 2008 and the Hon'ble Division Bench by an order dated 27.06.2008, dismissed the writ appeal on the reason that the learned single Judge has allowed the writ petition only after following the judgment of the Hon'ble Division Bench.

7. When that being the factual position, I do not find any justification on the part of the respondents in denying the third incentive increment to the petitioners when admittedly they have acquired M.Phil qualification during the period of service.

8. Accordingly, by following the above decisions, the writ petitions are allowed and the impugned orders are set aside. Consequently, the respondents are directed to sanction third incentive increment to the petitioners for possessing M.Phil degree, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar



To

1.The Secretary to Government,
School Education,
Fort St., George,
Chennai-9.

2.The Director of School Education,
College Road,
Chennai 6.

3.The Additional Assistant Elementary Educational Officer,
Assistant Elementary Educational Office,
Paramakudi, Ramanathapuram District.

4.The Headmaster
Panchayat Union Middle School,
Melaperungarai, Paramakudi,
Ramanathapuram District.

5.The Headmaster
Panchayat Union Middle School,
Keelaperungarai, Paramakudi,
Ramanathapuram District.

+2cc to Mr.S.Govindan,Advocate, SR.No.5819
+1cc to Special Govt.Pleader SR.No.6020

Writ Petition (MD) Nos.18471 and 18472 of 2014
09.02.2015

sms

PA/24.02.15/4P/9C