

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.7351 of 2016

1 C.Nirmala

[Petitioner]

Vs.

1. The Assistant Elementary Educational Officer,
O/o. The Assistant Elementary Educational Officer,
Dharmapuri.

2. The Head Mistress,
Municipal Middle School,
Mathikonpalayam,
Dharmapuri.

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus calling for the entire records relating to the order dated 29.01.2016 made in A.Thi.Mu.No.192/A1/2016 on the file of the first respondent herein and quash the same and consequently direct the respondents to sanction third incentive increment for M.Phil qualification to the petitioner.

For Petitioner : Mr.C.Munusamy

For Respondents : Mr.R.Vijayakumar, Addl.GP

O R D E R

Heard the learned counsel for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader, who took notice for the respondents and with their consent, the main writ petition itself is taken up for hearing.

2. The petitioner C.Nirmala, who joined the Panchayat Union Middle School, Naganur, Pennagarm as Secondary Grade Teacher on 2.3.2001, was promoted to the post of Primary School Headmaster and thereupon posted at Municipal Primary School, Railway Line, Dharmapuri on 21.9.2011. After some time, she was further promoted to the post of B.T.Assistant and posted at Municipal Middle School, Mathikonpalayam, Dharmapuri on 19.6.2014. Since

then, she has been working as B.T.Assistant in Municipal Middle School. In this background, her grievance is that after completing Master Degree in Tamil in the year 2002, she has also acquired M.Phil Degree in the year 2008. Thereafter, she also passed B.Ed degree in the year 2011. Therefore, she is entitled to get third incentive increment. When she applied for third incentive increment to the first respondent through proper channel, the same was rejected. The rejection of her request is contrary to G.O.Ms.No.1023, Education, Science and Technology Department dated 9.12.1993 according third incentive increment for M.Phil or M.Ed qualification.

3. Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the respondents, after going through the impugned order, has not furnished any explanation to support the impugned order.

4. In fact, when a similarly placed person approached the Madurai Bench of Madras High Court in Writ Petition (MD) No.14651 of 2015 (S.Joseph vs. the District Educational Officer, Madurai), this Court by an order dated 21.8.2015 allowed the Writ Petition, by directing the respondents therein to grant third incentive increment. The relevant portion of the said order is given as under:

"3. Although Mr.T.R.Janarthanam, learned Additional Government Pleader appearing for the respondents made submissions justifying the impugned order refusing to grant third incentive increment to the petitioner, having regard to the Division Bench judgment of this Court in Director of School Education, Chennai and another vs. N.Balasoundari and another (W.A.(MD) No.867 of 2014 dated 18.9.2014), this Court is of the view that the petitioner is entitled to third incentive increment for having acquired M.Ed qualification, hence the impugned order dated 29.6.2015 is set aside and the writ petition is allowed, directing the respondents to grant third incentive increment to the petitioner for M.Ed qualification, within a period of three weeks from the date of receipt of a copy of this order. No costs.

4. Although the Government have issued G.O.Ms.No.1023, Education, Science and Technology dated 9.12.1993 according third incentive increment for M.Phil or M.Ed qualification and subsequently the Division bench also in the above mentioned judgment held that a teach who acquired M.Phil or M.Ed qualification is entitled to third incentive increment being unaware of the same, the 2nd respondent has rejected the request of the petitioner for grant of third incentive increment thereby wasted the precious

time of this Court, hence, this Court imposes a cost of Rs.1,000/- payable by the 2nd respondent/Head Master, Government Boys Higher secondary School, Y.Othakadai, Madurai District to the Mediation and Conciliation Centre attached to this court within a period of one week from the date of receipt of a copy of this order."

5. In the aforesaid Writ Petition (MD) No.14651 of 2015, I have passed the order following the order passed by the Division Bench of the Madurai Bench of this Court in Director of School Education, Chennai and another vs. N.Balasoundari and another (W.A.(MD) No.867 of 2014 dated 18.9.2014).

6. In the light of the decisions cited supra, the impugned order is hereby set aside and the petitioner, who acquired, M.A. Degree in Tamil, M.Phil and B.Ed degree, is entitled to get third incentive increment. Therefore, the respondents are directed to grant third incentive increment to the petitioner, within a period of six weeks from the date of receipt of a copy of this order.

7. The Writ Petition is allowed with the above direction. No costs.

ajr

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Assistant Elementary Educational Officer,
O/o. The Assistant Elementary Educational Officer,
Dharmapuri.
2. The Head Mistress,
Municipal Middle School,
Mathiconpalayam,
Dharmapuri.

+ 1 cc to M/s.Mr.C.Munusamy, Advocate Sr 12773

+ 1 cc to The Govt.Pleader, SR 12929

KR/1/4/16

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