



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.11.2016

CORAM:

WEB COPY

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P(MD)No.20941 of 2016

M.Akilandeswari

: Petitioner

Vs.

1. The Government of Tamil Nadu
rep. by its Secretary,
Department of School Education,
Chennai - 09.

2. The District Elementary Educational Officer,
Educational Officer,
Tiruchirappalli.

3. The Assistant Elementary Educational Officer,
Thottiyam.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the second respondent to sanction two increments for further qualification of M.A. degree and B.Ed. degree of the petitioner.

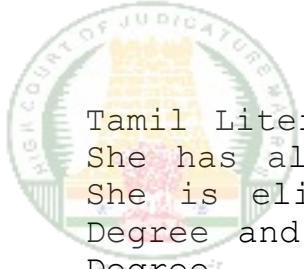
For Petitioner : Mr.S.Muthukrishnan
For Respondents : Mr.M.Murugan,
Government Advocate.

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, directing the second respondent to sanction two increments for further qualification of M.A. degree and B.Ed. degree of the petitioner.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate, who took notice for the respondents. By consent, the writ petition itself is taken up for final disposal.

3.The case of the petitioner is that the petitioner was appointed as Secondary Grade Elementary School Teacher in Panchayat Union Primary School at Thirumanickampatti, Thogamali Panchayat Union on 20.07.1999 and thereafter she was transferred to Kidaram Village. After obtaining permission, she obtained B.A. Degree in



Tamil Literature and Master Degree in Tamil in the year May, 2012. She has also completed B.Ed. (Mental Retardation) degree in 2012. She is eligible to get one increment for the completion of M.A. Degree and also one another increment for the completion of B.Ed. Degree. Therefore, she submitted an application to the third respondent for granting two increments on 26.12.2015. Thereafter, she submitted a representation through the District Collector, Tiruchirappalli on 21.09.2016, to the third respondent. Since, two increments are not sanctioned, this writ petition has been filed.

4. When the matter is taken up for hearing, the learned counsel appearing for the petitioner would submit that the issue involved in the writ petition has already been decided by this Court, vide Judgment, dated 18.09.2014 made in W.A(MD)No.867 of 2014. The paragraph Nos.35 to 38 of the said Judgment is extracted here under:

"35. Reverting back to the case on hand, it could be seen that the respondent/writ petitioner, in the post of Physical Education Teacher completed her B.A. in 1980 and B.Ed in 1982. Considering her educational qualification, she has been granted two advance increments for B.Ed., on 29.12.1982. She has acquired M.A in the year 1985. She was posted as B.T Assistant in 1987. She has been granted two advance increments for acquiring M.A qualification in the post of B.T Assistant with effect from 20.07.1987. She has completed M.Ed., in the month of December 1987 much before 09.12.1993. Decisions in The Director of School Education vs. S. Shanmugam (W.A.No.604 of 2005, decided on 03.04.2008) and P.B. Bheeman vs. The Registrar, (W.P.No.41451 of 2005, decided on 01.08.2008) can be made applicable to the present case.

36. Though both the cases relate to Tamil Pandits, the principle of law to be applied for grant of incentives for having higher qualifications in service, at the time of entry into service or subsequently acquired, applies to a B.T. teacher also. At this juncture, we wish to state that from the Government Orders referred to above, what is required to be considered is the educational qualifications possessed or acquired by a teacher. Now, when this Court has recognised the grant of advance incentive increment to a Tamil Pandit I, for possessing B.T. Qualification and when the Government have recognised the right of Tamil Pandit II, to seek for advance increments for acquiring B.T. qualification, in the post of Tamil Pandit II, and further recognised the rights of both, to claim advance increments, after B.T., and M.A., separately and thereafter, for M.Ed., qualification, in terms of G.O.Ms.No.42, we are unable to understand as to how the Government could raise objections. The objections are untenable.

37. Though it is contended that during the period of service or reemployment, the writ petitioner has not made any claim for third incentive for M.Ed qualification, that



would not curtail her right to claim after retirement. Entitlement to claim continues even after retirement.

38. For the reasons stated supra, we do not find any merit in the appeal. Accordingly, the Writ Appeal is dismissed. Appellants are directed to sanction and pay the arrears of incentive increment, to the writ petitioner for M.Ed degree qualification, within a period of eight weeks from the date of receipt of a copy of this judgment".

5. The learned Government Advocate has not disputed the above said submission made by the learned counsel for the petitioner.

6. Therefore, in the light of the Judgment passed in W.A(MD) No.867 of 2014, dated 18.09.2014, the writ petition is allowed and the respondents are directed to sanction two increments to the petitioner for having acquired higher qualifications of M.A. degree and B.Ed. degree, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar (Writ)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Department of School Education,
Government of Tamil Nadu,
Chennai - 09.
2. The District Elementary Educational Officer,
Educational Officer,
Tiruchirappalli.
3. The Assistant Elementary Educational Officer,
Thottiyam.

+ 1 CC TO Mr.S.MUTHUKRISHNAN, ADVOCATE IN SR No. 65091
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 64948

SMN
TE/MR-VB : 02/02/2017 : 3P/6C

ORDER MADE IN
W.P (MD) No.20941 of 2016
01.11.2016