



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2016

CORAM :

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P (MD) No.21536 of 2016

and

WMP (MD) .No.15392 and 15393 of 2016

R.Rengaraj

... Petitioner

Vs.

1.The District Educational Officer,
Trichirapalli.

2.The Secretary,
National College Higher Secondary School,
Trichirapalli. ... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 1st respondent in his proceedings in Na.Ka. 38-A5-2015 dated 25.01.2016 and quash the same and direct the respondents to sanction the incentive increment for M.Phil. qualification to the petitioner from June 2008 and confer all the consequential benefits and thus render justice.

For Petitioner : Mr.V.Panneer Selvam
For Respondents : Mr.M.Murugan
Government Advocate

O R D E R

This is a Writ of Certiorarified Mandamus, challenging the proceedings of the first respondent dated 25.01.2016 and consequently to direct the respondents to sanction incentive increment for M.Phil., qualification to the petitioner from June 2008 and also confer all the consequential benefits.

2.Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents, who takes notice for the respondents. By consent, the writ petition itself is taken up for final hearing at the stage of admission.

<https://hcservices.ecourts.gov.in/hcservices> First respondent has issued the order dated 25.01.2016 cancelling the incentive increment already sanctioned in respect of the petitioner acquiring M.Phil., qualification. In



the impugned order there is also a direction to remit the received incentive increment to the Treasury and to submit the receipt to the respondent office.

4.The learned counsel for the petitioner would submit that the petitioner has already remitted the amount of Rs.1,13,950/- on 22.02.2016. He would further submit that the impugned order passed by the first respondent herein is illegal and unjustifiable on account of the order passed by this Court in WP(MD)No.13965 of 2011 dated 25.07.2013, in which, there had been a direction to the respondents therein to sanction and to pay incentive increment. The petitioner herein is also a similarly placed person and therefore, the order passed by this Court will be squarely applicable to the case of the petitioner also.

5.The learned counsel for the petitioner would further submit that the amount of Rs.1,13,950/- has to be ordered to be refunded to the petitioner herein, as the impugned order is illegal.

6.The learned Government Advocate for the respondents would submit that the authority concerned has got jurisdiction to pass the impugned order and therefore, the same is well within the parameters of law and therefore, the impugned order is not liable to be set aside.

7.A mere perusal of the impugned order would go to show that the incentive increment already ordered in favour of the petitioner has been cancelled without any notice to the petitioner herein.

8.It is settled law that any order which will have civil consequences, cannot be passed without notice to the aggrieved party. Therefore, on the ground that principles of natural justice has been violated, while passing the impugned order, the same is liable to be set aside and the matter has to be remitted back to the authority concerned.

9.Accordingly, the impugned order passed by the first respondent dated 25.01.2016 is set aside and the matter is remitted back to the first respondent. The first respondent is expected to follow the dictum laid down in the order passed in WP (MD)No.13965 of 2011 dated 25.07.2013 and to pass orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. After passing orders, the claim of the petitioner for refund of Rs.1,13,950/- which was already paid towards incentive increment shall also be considered by the first respondent.



10. The writ petition is ordered accordingly. No costs. Connected WMP (MD) Nos. 15392 and 15393 of 2016 are closed.

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Sd/-
Assistant Registrar(crl)
/True copy/

Sub Assistant Registrar

To

1. The District Educational Officer,
Trichirapalli.

2. The Secretary,
National College Higher Secondary School,
Trichirapalli.

+1cc to Mr. V. Panneer Selvam, Advocate SR.No. 69114
+1cc to special Government Pleader SR.NO. 68325

mj
sm:SS3:5.12.2016:3P/5C

W.P (MD) No. 21536 of 2016