

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 05.12.2016****CORAM:****THE HON'BLE MR.JUSTICE R.SURESH KUMAR****W.P(MD) .No.23662 of 2016**

S.Justus,
Secondary Grade Teacher,
Holy Family Higher Secondary School,
Mukkuttukal, Manjallumoodu Post,
Kanyakumari District 629 151.

... Petitioner

Vs.

1. The State of Tamil Nadu represented
by its Secretary,
Department of School Education,
Fort St. George,
Chennai 600 009.
 2. The Director of School Education,
College Road,
Chennai 600 006.
 3. The Chief Educational Officer,
Kanyakumari District.
 4. The District Educational Officer,
Kuzhithurai,
Marthandam,
Kanyakumari District.
 5. The Correspondent,
Holy Family Higher Secondary School,
Mukkuttukal, Manjallumoodu Post,
Kanyakumari District 629 151.
- ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the fourth respondent herein to sanction and disburse incentive increments to the petitioner for possessing higher qualification of M.Sc., and M.Ed., degrees.



For Petitioner : Mr.E.V.N.Siva

For R1 to R4 : Mr.K.P.Krishna Das

Government Advocate

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ORDER

The prayer in the writ petition is for a Writ of Mandamus directing the fourth respondent to sanction and disburse incentive increments to the petitioner for acquiring higher qualification of M.Sc., and M.Ed., degrees.

2. The petitioner was appointed as a Secondary Grade Teacher in the fifth respondent School on 16.10.1996. It is a private aided minority educational institution in terms of Article 30(1) of the Constitution of India.

3. The petitioner already possessed B.Sc., degree during 1985, M.Sc., degree during 1987, B.Ed., degree during 1990, M.Ed., degree during 1996. Since the petitioner was appointed as a Secondary Grade Teacher at the fifth respondent School with a qualification of B.Sc., B.Ed., degree and the same was approved on 16.10.1996 onwards. Thereafter, since the petitioner is entitled for incentive increment for having qualified herself with M.A. and M.Ed., degree, the same had been requested through the fifth respondent School.

4. The said proposal sent by the fifth respondent School on 10.07.2015 was returned by the fourth respondent, by order dated 11.08.2015, wherein the reason was given that there is no Government Order or Guidelines issued by the second respondent/Director for consideration of the request of the petitioner. The said proposal was again resubmitted by the fifth respondent School, on 06.09.2016.

5. The learned counsel appearing for the petitioner would submit that the prayer sought for in this writ petition can be considered, since the issue has already been decided by this Court in a reported decision i.e., 2008(3) L.W. 383 in the matter of R.Premakumari vs. State of Tamil Nadu and others and in view of the same, as the petitioner has acquired higher qualification, for which he is entitled for incentive increment, the proposal sent by the fifth respondent on behalf of the petitioner ought to have been considered and ought not to have been returned by the fourth respondent.



6. However, the learned Government Advocate appearing for the official respondents would contend that the petitioner is not entitled for incentive increment as he had already acquired the higher qualification even before entering into the service. Commonly, those who entered into the service and subsequently, during service, if they acquired any qualification, in order to encourage them, such kind of incentive increments are given by the Government and that logic cannot be applied in respect of the petitioner, since he has already acquired this qualification before entering into the service. Therefore, the decision taken by the fourth respondent in returning the proposal of the petitioner is perfectly valid.

7. This Court has considered the rival submissions made by the learned respective counsel.

8. As rightly pointed out by the learned counsel for the petitioner that the issue of granting of incentive increment for those, who have already acquired the higher qualification even before entering into the service, has been decided by this Court in the judgment cited supra, especially in para-10 of the said judgment, which reads thus:-

"10. Since the impugned order was passed on the basis that the appellant was not entitled to receive incentive increments having entered into service with higher qualification is now disapproved by us, the authorities are required to consider the matter afresh in the light of the conclusion already made to the effect that the appellant was entitled to receive such increments at the time of entry into service.

9. In view of the aforesaid facts and circumstances of the case, this writ petition is disposed of with a direction to the fourth respondent to take up the proposal given by the fifth respondent dated 06.09.2016 and decide the same, after verifying the service records of the petitioner that whether he has already paid any incentive increment on acquiring of higher qualification and ultimately, if the fourth respondent decides that the petitioner is entitled to get incentive increment, the same shall be granted and the needful shall be done by the fourth respondent within a period of four weeks from the date of receipt of a copy of this order. No costs.



Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

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To

1. The Secretary,
Department of School Education,
Fort St. George,
Chennai 600 009.
 2. The Director of School Education,
College Road,
Chennai 600 006.
 3. The Chief Educational Officer,
Kanyakumari District.
 4. The District Educational Officer,
Kuzhithurai,
Marthandam,
Kanyakumari District.
- +1CC to Special Government Pleader Sr.79854

akv

AM/EM/MPA/27.12.2016/4P/6C

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