

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2017

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.22674 of 2014

R.Saravanan

... Petitioner

Vs

- 1.Government of Tamilnadu,
Rep.by Secretary to Government,
School Education Department,
Fort St.George, Chennai - 600 009.
- 2.The Director of School Education,
College Road, Chennai - 600 006.
- 3.The Joint Director of School Education (Vocational),
College Road, Chennai - 600 006.
- 4.The District Educational Officer,
Chennai East,
Jai Gopal Karodia (G) Higher Secondary School,
Choolaimedu High Road,
Chennai - 600 094.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents to grant incentive increments to the petitioner for acquiring B.Ed., qualification and grant arrears of increments as per G.O.Ms.No.240, School Education (VE) Department, dated 18.8.2010.

For Petitioner : Mr.P.S.Sivasubramaniam
for Mr.R.Saseetharan

For Respondents : Mr.A.Rajaperumal,
Additional Government Pleader

O R D E R

The relief sought for in this writ petition is for a direction to the respondents to grant incentive increments to the petitioner for acquiring B.Ed., qualification and grant arrears of increments as per G.O.Ms.No.240, School Education

(VE) Department, dated 18.8.2010. [hereinafter called as "G.O.Ms.No.240"]].

2. The learned counsel appearing for the writ petitioner made a submission that the writ petitioner was initially appointed as Double Part Time Vocational Instructor in Accountancy & Auditing on 21.9.1984 at S.K.P.D.Boy's Higher Secondary School, Chennai on consolidated pay. The appointment of the writ petitioner was approved by the Chief Educational Officer and he was absorbed as Full Time Vocational Instructor in regular time scale of pay from 01.04.1990 as per the proceedings of the Chief Educational Officer, Chennai, dated 30.3.1991. In proceedings dated 10.7.2007, the services of the writ petitioner was regularised in the post of Vocational Instructor from 01.04.1990. The writ petitioner has acquired the educational qualification of M.Com., and B.Ed. He acquired M.Com., degree from Madras University in May, 1987 and B.Ed., from Annamalai University in December, 1988. Based on the qualifications acquired by the petitioner, he claims that he is eligible for two incentive increments as per G.O.Ms.No.240. However, the writ petitioner is admitted that one incentive increment was already sanctioned and he has been receiving the benefit and second incentive increment for B.Ed., alone was denied. In this regard, the writ petitioner submits that he is entitled for the same by following above said G.O.Ms.No.240.

3. Now, this Court has to examine as to whether the petitioner is eligible to receive the second incentive increment as per the said G.O.Ms.No.240. The learned Additional Government Pleader made a submission that the fourth respondent District Educational Officer, filed a detailed counter and it is clearly stated that the writ petitioner is not eligible for second incentive increment as per G.O.Ms.No.240. In fact, G.O.Ms.No.240 was issued based on the order passed by this Court in W.P.Nos.6273 to 6276 of 2005, dated 02.12.2008. In accordance with the said G.O.Ms.No.240, the writ petitioner was sanctioned with one set of increment and therefore, he is not eligible for second set of increment as per the G.O.Ms.No.240, in view of the fact that the writ petitioner has not acquired the qualification as prescribed in the said G.O.Ms.No.240.

4. The learned counsel appearing for the writ petitioner as well as the learned Additional Government Pleader admitted the fact that the writ petitioner has acquired the qualification of M.Com., B.Ed. It is further, admitted by the parties that one set of incentive increment was already sanctioned and disbursed to the petitioner as prescribed in G.O.Ms.No.240. The only dispute is that the second incentive increment was not sanctioned for the qualification of B.Ed., degree acquired by

the writ petitioner.

5. On a perusal of G.O.Ms.No.240, this Court is of the view that the said G.O.Ms.No.240 was issued pursuant to the order passed by this Court cited supra. G.O.Ms.No.240 provides the qualifications required for the purpose of granting incentive increments. Accordingly, the writ petitioner comes under the category of Vocational Instructor of Commerce and Business and the column of the Government Order is relevant in respect of the facts and circumstances of the case is extracted under :

Sl .N o	Subject	Basic Qualification	Higher Qualification Prescribed	
			1 st Incentive (Two Advance Increments)	2 nd Incentive (Two Advance Increments)
3.	Accountancy and Auditing	B.Com.,with specialization in Advanced Banking	M.Com., (or) B.Ed.,	M.Phil (or) M.Ed., (or) Ph.D.,

6. The first column denotes serial number, the second column is subject, the third column provides basic qualification and columns 4 and 5 state about higher qualification prescribed and one for grant of first incentive (two advance increments) and second incentive (two advance increments). Thus, there is no dispute in respect of the prescription of qualifications as per G.O.Ms.No.240. As per the said G.O.Ms.No.240, the writ petitioner acquired the basic qualification of B.Com.,with specialization in Advanced Banking. His appointment was provided on compassionate grounds and, his services were regularised in accordance with Rules in force. First incentive (two advance increments) was already granted to the writ petitioner by virtue of acquisition of the qualification of M.Com., degree. However, the second incentive (two advance increments) can be sanctioned only if the writ petitioner completes the degree of M.Phil., or M.Ed., or Ph.d. In other words, if the writ petitioner acquires the qualification of M.Phil., or M.Ed., or Ph.d., then only the petitioner is eligible to receive second incentive as per G.O.Ms.No.240. Admittedly, the writ petitioner has not possessed any one of the degrees as prescribed in the above G.O.Ms.No.240. In respect of the qualification prescribed in the fourth column, the writ petitioner has already received one incentive increment for the qualification of M.Com. Thus, the writ petitioner is not entitled for the second incentive as per the said G.O.Ms.No.240. When the policy in respect of grant of incentive increment has been unambiguous, as clarified in the G.O.Ms.No.240 cited

supra, the Courts cannot extend the scope of grant of incentives, because, the grant of incentives involves financial implications and any incorrect or erroneous grant in this regard will certainly cause financial loss to the State exchequer. All such incentive increments has been extended strictly by the Department in accordance with the policy taken by the Government and orders are passed in this regard.

7. This Court is of the opinion that the incentive increments are extended to the teaching staff to motivate them to acquire more qualification, which will be useful for the purpose of improving and imparting education in the educational institutions. Such incentives are granted by the Government as a policy in order to motivate the teachers working in schools and colleges. Thus, such additional incentive increments granted by way of an additional encouragement, is to be sanctioned strictly in accordance with the terms and conditions of the order passed by the Government in this regard.

8. The competent officials in this regard should also be very cautious, while sanctioning such incentive increments. Any mistake will mislead the situation and by considering the wrong precedent, many teachers working in schools and colleges would claim that they are also entitled for the second incentive increment. Supervising officials should also be cautious, while sanctioning incentive increments by checking and counter-checking in this regard, before sanctioning any such increment as per G.O.Ms.No.240. The head of the institutions and head of the Departments should also be cautious and if necessary, issue suitable instructions to all the subordinates in this regard to verify the Government orders before granting any such increment to eligible teachers in accordance with the Government policies issued by way of Government orders. Thus, any wrong sanctioning of incentives to any teacher cannot be treated as a precedent so as, to follow the same.

9. This Court is of the firm opinion that any mistake committed in this regard will only create bad precedent so as to grant to all the teachers. The incentive increments are to be granted strictly in accordance with the Government order. Any dilution will create wrong precedent and it will result in financial loss to the State exchequer. This being view of this Court, the writ petitioner is not entitled for second set of incentive increment as per G.O.Ms.No.240 and only in the event of acquiring the qualification of M.Phil., or M.Ed., or Ph.d., he will be eligible to get the second set of increment and not otherwise. Thus, no further adjudication is required on the grounds raised in this writ petition.

10. Accordingly, the writ petition stands dismissed.
However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Fort St.George, Chennai - 600 009.
- 2.The Director of School Education,
College Road, Chennai - 600 006.
- 3.The Joint Director of School Education (Vocational),
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Jai Gopal Karodia (G) Higher Secondary School,
Choolaimedu High Road,
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+1 cc to the Government pleader sr 78255

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