

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.01.2017

Coram

The Honourable Mr. JUSTICE M.SATHYANARAYANAN

Writ Petition No.44448 of 2016

and W.M.P.No.38292 of 2016

C.Murugan

...Petitioner

-Vs-

1. The Chief Educational Officer,
Dharmapuri District,
Dharmapuri.
2. The Headmaster,
Government Girls Higher Secondary School,
B.Mallapuram,
Pappyreddipatti Taluk,
Dharmapuri District.
3. The Regional Accounts Officer (Audit)
School Education Department,
Coimbatore - 641 001. ... Respondents

Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the respondents herein not to recover any amount granted as incentive increment and also refix the salary of the petitioner on the basis of the audit objection made by the 3rd respondent in his proceedings Na.Ka.No.3467/E11/2012 dated 03.11.2012.

For Petitioner : Mr.J.Selvarajan

For Respondents:Mr.P.Senthilvel,Government Advocate.

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner is working as Secondary Grade Assistant at Government Girls Higher Secondary School, G.Mallapuram, Pappyreddipatti Taluk, Dharmapuri District and prior to his appointment he completed Bachelor Degree in Tamil during 1993, B.Ed. degree during 1996 and M.A. degree in Tamil during 1998 and he was appointed as B.T.Assistant as no qualified person is available with secondary grade qualification at that point of time. The petitioner was appointed as per G.O.Ms.No.301, School Education Department dated 15.10.1999. The petitioner would state that while he was appointed in service, a condition was imposed that such teachers could not claim incentive increment for B.Ed. qualification. The claim of the petitioner is that even at the time of appointment itself, he had qualified Master Degree in Tamil and as such he was granted incentive increment vide proceedings dated 01.07.2007 and his salary was also refixed accordingly. In the light of the audit objection, the incentive increment is sought to be recovered. In this regard, he also submitted a representation dated 23.06.2016 to the respondents through proper channel and also drawn their attention to the judgment rendered by this Court reported in 2008(5) MLJ 1349 (R.Premakumari vs. State of Tamilnadu) and inspite of receipt of acknowledgement, it is yet to be given disposal and steps have been taken to recover the amount paid towards the incentive increment. Hence, he came forward to file this writ petition.

3. Learned counsel appearing for the petitioner would submit that following the above cited judgement, the learned Single Judge, in the order dated 13.10.2014 made in W.P.No.7381/2007 (O.A.No.6369 of 2002) (G.Meenalochini vs. Chief Educational Officer, Trichy & 2 others) had granted the relief to the similarly placed person like that of the petitioner. Therefore, he prays for similar orders.

4. Mr.P.Senthilvel, learned Government Advocate appearing for the respondents would submit that no acknowledgement is available for submitting the representation to the respondents by the petitioner and as such the Mandamus cannot be issued directing the respondents to pass appropriate orders.

5. This Court considered the rival submissions.

6. Though the petitioner prays for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim of the petitioner, permits the petitioner to submit one more representation to the

respondents 1 to 3 along with a copy of this order as well as the copy of the earlier representation dated 23.06.2016 within a period of two weeks from the date of receipt of a copy of this order and the respondents on receipt of the same are directed to consider the same on merits and in accordance with law and pass orders within a period of six weeks thereafter and communicate the decision taken to the petitioner and till such time, the respondents shall defer further proceedings as to the recovery of incentive increment already paid to the petitioner. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsi

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+1cc to Mr.J.Selvarajan, Advocate Sr.649

+1cc to the Government Pleader Sr.209

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