



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:26.04.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A. (MD) No.469 of 2017 &
C.M.P. (MD) .No.4184 of 2017

- 1.The Director of Elementary Education,
College Road,
Chennai-600 006.
 - 2.The District Elementary Educational Officer,
Tuticorin,
Tuticorin District.
 - 3.The Assistant Elementary Educational Officer,
Udangudi Union,
Tuticorin District.
- ...Appellants/Respondents
- Vs.

S.Thanmilarasi
Headmistress,
Panchayat Union Middle School,
Naina Pillai Street, Udangudi,
Tuticorin District-628 203.
Petitioner

... Respondent/ Writ

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent Act against the order dated 21.09.2016 in W.P.(MD).No.16835 of 2016.

Prayer in WP(MD)No.16835/2016:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 3rd respondent herein vide proceedings A.Thi.Mu.No.240/A1/2013 dated 07.10.2013 quash the same, and further direct the respondents herein to sanction one set of incentive increments for acquiring M.A degree w.e.f.03.06.2010 instead of sanction it from 04.02.2013 and also sanction one set of incentive increments for acquiring B.Ed., degree w.e.f. 04.02.2013 to the petitioner.

For Appellants : Mr.V.Muruganantham
Additional Government Pleader
For Respondent : Mr.A.Ajith Geethan



JUDGMENT

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J]
Heard, Mr.V.Muruganantham, learned Additional Government Pleader for the appellants and Mr.A.Ajith Geethan, learned counsel, who accepts notice for the respondent. By consent, the writ appeal itself is taken up for final disposal.

2. This appeal filed by the Director of Elementary Education and two others is directed against the order passed in W.P.(MD). No.16835 of 2016, dated 21.09.2016. The said writ petition was filed by the respondent herein challenging the order passed by the 3rd appellant, dated 07.10.2013 and to sanction one set of incentive increment for acquiring M.A. Degree with effect from 03.06.2010 instead of sanction it from 04.02.2013 and also to sanction one set of incentive increment for acquiring B.Ed. Degree with effect from 04.02.2013.

3.The learned Single Judge after considering the case of the respondent/writ petitioner opined that the order passed by the third appellant herein was illegal. However, after holding that the order is illegal and setting aside the same, no positive direction was issued to the third appellant, instead directed District Elementary Educational Officer to consider the representation of the respondent/writ petitioner in tune with the earlier orders dated 01.04.2013 and 29.09.2014. The appellants are aggrieved by such direction, stating that the respondent would not be entitled for incentive increment in the light of the proceedings of the Director of Elementary Educational, dated 11.08.2016. This appeal has been prepared. Further it is submitted that G.O.Ms.No.107 Education Department, dated 20.01.1976 pertains to Tamil Pandits provided that the Tamil Pandits are entitled to two incentive increment only after passing M.A. and M.Ed., and not otherwise.

4. In our considered view, the learned Single Judge has not issued any positive direction to sanction increment, but only directed to pass orders on the representation in tune with the earlier orders passed by the second appellant, dated 01.04.2013 and 29.09.2014. If according to the appellants, the earlier order passed by the second appellant will not govern the case of the respondent/writ petitioner, it will be open to the appellants to assign specific reasons in that regard and pass a speaking order and communicate the same to the respondent/writ petitioner.



5. Thus the appeal is disposed of by clarifying that it is open to the appellants to consider the representation of the respondent/writ petitioner and pass orders in accordance with law, as expeditiously as possible, preferably within a period of 8 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar

To

1. The Director of Elementary Education,
College Road,
Chennai-600 006.
2. The District Elementary Educational Officer,
Tuticorin,
Tuticorin District.
3. The Assistant Elementary Educational Officer,
Udangudi Union,
Tuticorin District.

+One cc to Mr.R.Ajith Geethan, Advocate, SR.No.54391

jikr

RL/5C/3P/MMS/SAR/11.5.2017

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