



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2017

C O R A M

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.7092 of 2016

and

W.M.P. (MD) No.6025 of 2016

A.Rajasekaran

.. Petitioner

Vs.

1. The District Educational Officer,
Tiruchirappalli.

2. The Secretary,
E.R.Higher Secondary School,
Trichy.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the first respondent in his proceedings in Aa.Thi.Mu.No.6822/A3/15, dated 27.01.2016 and to quash the same and to direct the respondents to sanction one set of incentive increment for M.Phil., qualification to the petitioner and confer all the consequential benefits.

For Petitioner : Mr.V.Panneer Selvam
For R-1 : Mr.N.S.Karthikeyan,
Additional Government Pleader.

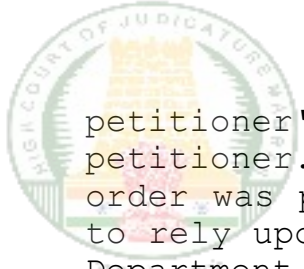
O R D E R

This Writ petition is filed to quash the impugned proceedings of the first respondent in Aa.Thi.Mu.No.6822/A3/15, dated 27.01.2016, and to direct the respondents to sanction one set of incentive increment for M.Phil., qualification acquired by the petitioner.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the first respondent.

3. By the impugned order in Aa.Thi.Mu.No.6822/A3/15, dated 27.01.2016, the request of the petitioner for incentive increment for higher qualification was returned. Challenging the return of the petitioner's application, the above Writ petition is filed.

4. Since the petitioner relied upon the Government Order in G.O.Ms.No.324, Education, Science and Technology Department, dated 25.04.1995, this Court, by an order dated 12.04.2016, directed the petitioner to furnish the copy of the above Government Order to the District Educational Officer, Thiruchirappalli, so that the



petitioner's application can be considered in favour of the petitioner. However, during the pendency of the Writ petition no order was passed. The learned counsel for the petitioner preferred to rely upon the G.O.Ms. No.324, Education, Science and Technology Department, dated 25.04.1995, which clearly stipulates that the Teachers in Physical Education are eligible for the incentive increment for acquiring the higher qualification in Physical Education.

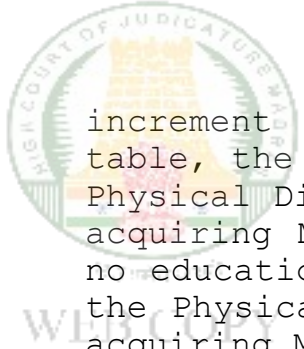
5. The petitioner has acquired M.PEd., qualification and he was granted one incentive for acquiring the said qualification. The petitioner has also acquired M.Phil., (Master of Philosophy in Physical Education) in the year 2008. Hence, it is the case of the petitioner that he is entitled to incentive increment for acquiring M.Phil., in Physical Education in tune with the Government Order in G.O.Ms. No.324, Education, Science and Technology Department, dated 25.04.1995.

6. The learned counsel for the petitioner also relied upon the Judgment of this Court in ***W.P. (MD) No.13965 of 2011, dated 27.08.2013, in the case of V.Arulmoni Vs. The Joint Director of School Education, Chennai and one other.*** The learned Single Judge of this Court after referred to G.O.Ms.No.324, Education, Science and Technology Department, dated 25.04.1995, has allowed the similar Writ petition and directed the respondents therein to sanction and to pay incentive increment to the petitioner for acquiring the M.Phil., degree in Physical Education.

7. The learned counsel for the first respondent filed a counter affidavit and admitted the contents of the Government Order. However, in paragraph No.4 of the counter affidavit, the first respondent stated, as follows:-

"4.The proceedings of the Director of School Education, dated 20.11.2015 specifically states that the Physical Director Grade-II can get an increment for his qualification of M.PEd., not for M.Phil. The plea of a petitioner is unsustainable as on dated G.O.Ms.No.324 is alive. As per the G.O., the petitioner is not eligible for incentive increment for the qualification of M.Phil., which is no way relevant to Physical Education."

8. The statement of the first respondent in the counter affidavit was further explained by the learned Additional Government Pleader appearing for the first respondent that the petitioner is not eligible as per G.O.Ms.No.324, Education, Science and Technology Department, dated 25.04.1995, as the Director of School Education, by proceedings dated 20.04.2015 has clarified the above Government Order. As a matter of fact, the learned Additional Government Pleader referred to the proceedings of the Director of the School Education, dated 20.11.2015. Though it is stated that the incentive



increment should be granted as per the details furnished in the table, the said table, annexed to this proceedings indicate that the Physical Director Grade-II is only entitled to an increment for acquiring M.PEd. It is further indicated in the Table itself, that no educational qualification is prescribed for the post and hence, the Physical Director Grade-II is not given incentive increment for acquiring M.Phil.

9. The classification is not in terms of the Government Order and therefore this court feel that the Director of School Education is not an Authority to interpret the Government Order against its meaning. The petitioner has acquired M.Phil., qualification. The petitioner can complete M.Phil., only, if he has acquired M.PEd. In such circumstances, M.Phil., an additional qualification acquired by the petitioner cannot be ignored in terms of G.O.Ms.No.324 Education, Science and Technology Department, dated 25.04.1995. No part of the above Government Order indicate that a person who is working as Physical Director Grade-II cannot be granted incentive increment for acquiring additional qualification of M.Phil. Since the classification relied upon by the first respondent is contrary to plain reading of G.O.Ms.No.324 Education, Science and Technology Department, dated 25.04.1995, this Court is not inclined to accept the contention of the first respondent.

10. As a result, the Writ petition is allowed and the impugned order in Aa.Thi.Mu.No.6822/A3/15, dated 27.01.2016 passed by the first respondent is set aside. Hence, the petitioner is directed to submit the application to the second respondent school and upon submission of the application for incentive increment, the first respondent is directed to grant additional incentive increment to the petitioner for acquiring the qualification of M.Phil. This exercise shall be done within a period of six weeks from the date of receipt of the application from the second respondent. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To
The District Educational Officer,
Tiruchirappalli.
+1cc to The Special Government Pleader in SR. NO.62527
+1cc to M/s. V.Panneer Selvam Advocate in SR. NO.62564
PMU
JS/SKN.RSK/SAR.4/16.08.2017/2P-4C

ORDER MADE IN

W.P. (MD) No.7092 of 2016

and

W.M.P. (MD) No.6025 of 2016

28.06.2017