

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED:21.03.2017****Coram:****WEB COPY****THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN****W.P. (MD)No.14427 to 14429 of 2013**

K.Sagayarani .. Petitioner in WP(MD)No.14427/2013
B.Arul Jackuline .. Petitioner in WP(MD)No.14428/2013
S.Krishnaveni .. Petitioner in WP(MD)No.14429/2013

-Vs-

1.The District Elementary Educational Officer,
Sivagangai.

2.The Additional Assistant Elementary Educational Officer,
Manamadurai,
Sivagangai District.

.. Respondents in all the WPs

PRAYER in W.P.(MD)No.14427 of 2013: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for records relating the order passed by the 2nd respondent in his Proceedings in Na.Ka.No.288/A1/13 dated 13.03.2013 and quash the same and direct the respondents to sanction two sets of incentive increments to the petitioner for M.A., and B.Ed., Decree.

PRAYER in W.P.(MD)No.14428 of 2013: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for records relating the order passed by the 2nd respondent in his proceedings in Na.Ka.No.288/A1/13 dated 13.03.2013 and quash the same and direct the respondents to sanction two sets of incentive increments to the petitioner for M.A., and B.Ed., Decree.

PRAYER in W.P.(MD)No.14429 of 2013: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of writ, call for records relating the order passed by the 2nd respondent in his proceedings in Na.Ka.No.1658/A1/2012 dated 08.01.2013 and quash the same and direct the respondents to sanction two sets of incentive increments to the petitioner for M.A., and B.Ed., Decree.



(In all the WPs)

For Petitioners : Mr.V.Panneer Selvam
for M/s.C.S.Associates

WEB COPY For Respondents : Mr.K.Guru (for R1 and R2)
Additional Government Pleader

COMMON ORDER

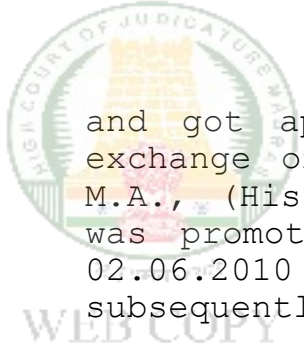
The issue involved in these writ petitions is as to whether the petitioners serving as Middle School Head Master under the Respondents are entitled to get two sets of incentive increments for their additional education qualification are not?

2.As the issue involved in these writ petitions is one and the same the common order is passed as follows:

It is the case of the learned counsel for the Petitioners that the petitioner in W.P.No.14427 of 2013 passed her Secondary Grade Teacher Training in March, 1988. Subsequently, she was appointed as Secondary Grade Teacher through employment exchange. Thereafter she completed her B.Lit., and was promoted as Elementary School Head Master in 2003. In the meanwhile in 2000, she completed her M.A. degree in Tamil and thereafter was promoted as Middle School Head Master on 02.06.2010. Thereafter in the year 2011 she also acquired the B.Ed., degree. Since the Petitioner was promoted as Middle School Head Master on the basis of her B.Ed., qualification on 02.06.2010, she made a representation for the sanction of incentive increments for her M.A., and B.Ed., degrees.

3.As far as the writ petitioner in W.P.No.14428 of 2013 is concerned that in March 1989 she passed her Teacher Training and got appointed herself on 01.07.1991 through employment exchange. Subsequently, she has passed her B.A., (History), M.A., (History) and B.Lit., degrees and became eligible to get appointed for the post of Tamil Pandit as well as Middle School Head Master. However, as per the seniority on 13.04.2003 she was promoted as Elementary School Head Master on 02.06.2010 she was promoted as Middle School Head Master and she also acquired B.Ed., degree in 2011. Subsequently, she made representation to the respondent for the sanctioning of incentive increments for her M.A., and B.Ed., degrees. However, the Director of Elementary Education as per the proceeding dated 07.06.1991 clarified that Middle School Head Masters working with the qualification of Tamil Pundit are entitled for one incentive increment for their B.Ed., qualification.

4.As far as the Petitioner in W.P.No.14429 of 2013 is concern that she passed her Secondary Grade Teacher Training in March, 1988



and got appointed as Secondary Teacher Grade through employment exchange on 03.08.1988. However, she also passed B.A., (History), M.A., (History), B.Lit., in 2006. Subsequently, on 16.06.2003 she was promoted as Elementary School Head Master and thereafter on 02.06.2010 she was promoted as Middle School Head Master subsequently, she acquired her B.Ed., degree in 2011.

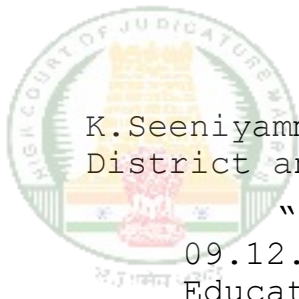
5.The learned Counsel for the petitioner would submit that the impugned order dated 13.03.2013 in W.P.Nos.14427 and 14428 of 2013 and on 18.01.2013 in W.P.No.14429 of 2013 are non application of mind without considered the G.O.Ms.No.42 dated 10.01.1969. Further, the impugned order is against the order of the Director of Elementary Education dated 07.06.1991. Further, it is also contended by the learned Counsel for the Petitioner that similarly placed person have been sanctioned incentive increments for their M.A., and B.Ed., degrees. So, the impugned order is liable to be set-aside with a direction to provide two incentive increments to all the Petitioners.

6.Per contra the learned Additional Government Pleader by cited the counter affidavit filed by the 1st Respondent submitted that though the Petitioners have acquired the said higher education qualifications, the same were acquired after getting the promotion of Middle School Head Master. Further, he also pointed out here that the incentive increments cannot be awarded for basic requisite qualifications and it is awarded for higher qualification. Hence, he justifies the order passed by the Assistant Elementary Education Officer and prays for the dismissal of the writ petitions.

7.Further, the Learned Government Additional Pleader would contend that the Petitioners have alternative remedy against the order of the 2nd respondent before the 1st respondent, therefore, the filing of the writ petitions are not maintainable.

8.I heard Mr.V.Panneer Selvam for M/s.C.S.Associates, learned counsel for the petitioners and Mr.K.Guru, learned Additional Government Pleader for the respondents in all the Writ Petitions and perused all the materials available on records.

9.It is the case of the Petitioners that they have passed the required education qualification for their promotion as well as appointment for the suitable post including Middle School Head Masters; hence they are entitled to get all the benefits provided by the Government attached with their service. Further, in similar cases with regard to the other districts two increments have been ~~awarded~~ ^{granted} for acquiring higher educational qualifications. In this regard the learned counsel has placed his reliance in a judgment of this Court dated 07.11.2014 in W.P.(MD)No.75956/2012 in



K.Seeniyammal Vs. The District Elementary Educational Officer, Theni District and another wherein it is held that

"The combined appreciation of G.O.Ms.No.1024, dated 09.12.1993 and clarificatory G.O.Ms.No.107, School Education Department left no doubt in the mind of this Court that the Tamil Pandit who was promoted as Middle School Headmistress who obtained M.A. or B.Ed degree is entitled to two incentives. The same is also allowed in respect of one Shanmugam of Kovilpatti Nadar Middle School and the same is also clarified by the 1st Respondent/District Elementary Educational Officer, Theni District in his proceedings dated 03.06.2009. As a matter of fact, in the proceedings issued in favour of one Shanmugam, who is also similarly placed, it is stated clearly that two incentives is allowed/sanctioned only to encourage the teachers to enhance their educational qualification to serve the students community in a better manner. That being so, there is absolutely no reason for denial of the same benefits to the Petitioner who is also similarly placed. The Petitioner herein also acquired additional qualifications after having been promoted to the post of Middle School Headmistress with the requisite qualification already possessed by her and by way of appreciation and encouragement of the same, she is entitled to the incentive increment as prayed by her in this Writ Petition and the denial of the same by way of impugned order is contrary to the Government Orders above cited and the impugned order is passed on non-application of mind and is hence not sustainable in law".

10.So, it is the settled legal position that the sanction of two incentive increments is permissible in order to encourage the Teachers to uplift their educational qualifications to improve the educational status in Tamil Nadu. Further, an incentive increment is the scheme introduced by the Government by way of Government orders. At the same time the objection of the Learned Additional Government Pleader by taking technical stand that incentive increments cannot be awarded for basic requisite qualification is not applicable to these cases since the increments are sanctioned for acquiring higher educational qualification. Moreover, the perusal of the respective impugned orders would show that same in no way be justified in view of the Government Orders relied on by the learned Counsel for the petitioners and I am unable to accept the stand taken by the 1st Respondent in rejecting the representation of the Petitioners for two increment for acquiring higher educational qualification. Further, in the considered opinion of this Court it is unjustifiable and the same shall not with stand.

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11.In the result, all the writ petitions are allowed and the respective impugned orders stand quashed and the Respondents are



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directed to sanction two sets of increment to the petitioners for their M.A., and B.Ed., degrees with in a period of eight weeks from the date of receipt of the copy of this order. No costs.

Sd/-

Assistant Registrar (T & P)

/True Copy/

Sub Assistant Registrar

To

1.The District Elementary Educational Officer,
Sivagangai.

2.The Additional Assistant Elementary
Educational Officer,
Manamadurai, Sivagangai District.

+3cc to M/S.V.PANNEER SELVAM, Advocate SR.No.16668, 16669 & 16670.
+1cc to Special Government Pleader in SR.No.16662.

order made in
W.P. (MD)No.14427 to 14429 of 2013
21.03.2017

vsa/skn

SDS/SV:MMS/SAR 2/21.02.2018/5P/7C