

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14962 of 2017

and

W.M.P.Nos.16203 and 16204 of 2017

1.R.Prabhukannan
2.P.Kanagaraj
3.N.Premalatha
4.V.Veerapadran

.. Petitioners

vs.

1. The Government of Tamilnadu,
Represented by the
Principal 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 Chief Educational Officer,
Sivagangai District, Sivagangai.

4. The Head Master,
Government Higher Secondary School,
Ilanthaikulam, Keeladi Post,
Thiruppuvanam Taluk,
Sivagangai District - 630 612.

5. The Head Master,
Government High School,
Arasanoor, Thirumanjulai,
Sivagangai District - 630 562.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus calling for the records of the first respondent in relation to the proceeding issued in Letter (Ms) No.129, School Education (PaKa5(2) 2013-1, dated 17.07.2013 and quash the same in so far as the petitioners are concerned and issue a consequential direction to the respondents to grant incentive increment to the petitioners for M.Phil. Degree from the date following last date of the examination.

For Petitioners
For Respondents

: M/s. S.Saravanan
: Mr.K.Karthikeyan
Government Advocate

O R D E R

The Government order issued in Letter (Ms) No.129, School Education (PaKa5(2) 2013-1, dated 17.07.2013 is under challenge in this writ petition.

2. The grievances of the petitioners are that, the incentive increment granted to the writ petitioners from the date of the request of the government order is erroneous and writ petitioners are entitled to grant of incentive increment for passing of M.Phil degree from the date of examination. In other words, the writ petitioners claim that, the date of possessing the higher educational qualification must be taken in to account for the purpose of grant of incentive increment. The writ petitioners are working as B.T. Assistant Teachers and they acquired the higher qualification and accordingly the respondents are granted incentive increment to the writ petitioners.

3. The claim of the writ petitioners are that, the incentive increment granted to them must be sanctioned with effect from the date of acquiring the higher qualification and not from the date of the government order. This court is of an opinion that, the grant of incentive increment is a concession granted to the Teachers and therefore the State is empowered to fix certain terms and conditions.

4. It is the provocative of the State to fix the date from which such incentives ought to be granted. The grant of incentive increment is not part and parcel of the rules or the regular scale of pay. It is an additional concession granted to the Teachers to encourage them to acquire higher qualifications, which would be useful for imparting better education to the children studying in the school.

5. The similar relief sought for in this present writ petition was considered by this Court in W.P.No.5446/14 dated 28.08.2018 and following relevant paragraphs are extracted here under:-

"5.This Court is of an opinion that as of now, no proceedings are initiated by the competent authority either to recover the excess payments or to stop the increments already granted in favour of the writ petitioner. In the absence of any such grievances, the writ petition cannot be entertained.

6. In this view of the matter, the writ petitioners have not established any cause of action for the purpose of moving the present writ petition. However, the present writ petition has been filed based on the apprehension that the clarification will be a hindrance for the writ petitioners for continuance of the increments already granted in

their favour. Such an apprehension cannot be entertained in the absence of any cause of action, or any action initiated in this regard."

6. In view of the fact that, no order of recovery has been passed in respect of the writ petitioners. No further consideration is required in respect of the grounds raised in this writ petition.

7. Accordingly, the writ petition stands disposed of. However, no order as to Costs. Consequently, connected miscellaneous petitions are closed.

pkn

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Government of Tamilnadu,
School Education Department,
Fort St. George, Chennai - 600 009.
2. The Director of School Education,
College Road, Chennai - 600 006.
3. The Chief Educational Officer,
Sivagangai District, Sivagangai.
4. The Head Master,
Government Higher Secondary School,
Ilanthaikulam, Keeladi Post,
Thiruppuvanam Taluk,
Sivagangai District - 630 612.

+1cc to the Government Pleader, S.R.No.64988

KR/2/11/18

WEB COPY

W.P.No.14962 of 2017
and
W.M.P.Nos.16203 and 16204 of 2017