

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17-09-2018

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.29843 and 29844 of 2017

And

W.M.P.Nos.32207 and 32208 of 2017

K.Gurumurthy ... Petitioner in WP 29843/2017

G.G.Muhunthan ... Petitioner in WP 29844/2017

..Vs..

1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
School Education Department,
Secretariat,
Fort St. George,
Chennai-600 009.

2.The Director of Elementary Education,
DPI Campus,
College Road,
Chennai-600 006.

3.The District Elementary Educational Officer,
Erode District,
Erode.

4.The Additional Assistant Elementary Educational
Officer,
Gobichettipalayam,
Erode District. ... Respondents in both WPs

PRAYER : Petitions filed Under Article 226 of the Constitution of India praying to issue Writs of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the fourth respondent in Na.Ka.No.937/A1/2017 dated 13.9.2017 and to quash the same in so far as the petitioners are concerned and consequently, directing the respondents not to recover the incentive increment granted in favour of the petitioners for M.Phil Degree from the date of acquisition of the Degree.

For Petitioner in both WPs : Mr.G.Sankaran

For Respondents in both WPs : Mr.K.Karthikeyan,
Government Advocate.

C O M M O N O R D E R

The reliefs sought for in these writ petitions are to call for the records in respect of the order of recovery dated 13.9.2017 to recover the excess amount of incentive increment granted in favour of the writ petitioners.

2. The grievances of the writ petitioners are that they were sanctioned with the incentive increments for possessing a higher educational qualification as per the Government Orders in force. However, based on the audit objection, the incentive increments granted are sought to be recovered.

Challenging the said recovery, the above writ petitions have been filed by the writ petitioners.

3. It is made clear that a teacher in his entire service is entitled to draw incentive increments for possessing higher educational qualifications. Granting of incentive increments are to be regulated in accordance with the terms and conditions of the Government Orders passed in this regard.

4. In respect of the incentive increment, if a concession is granted to the teacher, the same is to be granted uniformly and in accordance with the Government Orders in force. In the event of any excess payment, the same can be done by following the procedures contemplated.

5. In the above cases, the grant of incentive increment is to be regulated in accordance with the Government Orders in force. In respect of recovery of excess payment, the Government issued G.O.Ms.No.286, Finance (Pension) Department, dated 28.8.2016. The said Government Order was issued based on the legal principles settled by the Hon'ble Supreme Court of India in the case of State Of Punjab & Ors vs Rafiq Masih [2015 (4) SCC 334].

6. Accordingly, in respect of the amount, the respondents are directed to follow the guidelines issued by the Government Order in G.O.Ms.No.286, Finance (Pension) Department, dated 28.8.2018 and pass appropriate revised orders in respect of the case of the writ petitioners, within a period of twelve weeks from the date of receipt of a copy of this order.

7. Accordingly, the writ petitions stand disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

17-09-2018

Index : Yes.

Internet : Yes.

Speaking Order.

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To

1.The Principal Secretary to Government,
State of Tamil Nadu,
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Chennai-600 009.

2.The Director of Elementary Education,
DPI Campus,
College Road,
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3.The District Elementary Educational Officer,
Erode District,
Erode.

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Erode District.

S.M.SUBRAMANIAM, J.

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WPs 29843 and 29844 of 2017

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