

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.09.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.43155 to 43157 of 2016
and

W.M.P.Nos.36984 to 36988 of 2016

W.P.No.43155 of 2016

1.S.P.Karthikeyan

2.R.Lakshmi Rekha

3.B.Sudha

4.E.Pappu

5.A.Amsa

6.G.Govindan

7.M.Babu

8.J.Ravi

9.P.Vadivudayambal

Petitioners

Vs.

1. The State of Tamil Nadu,
Rep. 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,
Kancheepuram District,
Kancheepuram.

4. The Assistant Elementary Educational Officer,
Kundrathur Union,
Kancheepuram District.

5. The Assistant Elementary Educational Officer,
Sriperumbudur Union,
Kancheepuram District.

6. The Assistant Elementary Educational Officer,
Achirapakkam Union,
Kancheepuram District.

7. The Assistant Elementary Educational Officer,

Sriperumbudur Union,
Kancheepuram District.

8. The Assistant Elementary Educational Officer,
Maduranthakam Union,
Kancheepuram District.

9. The Assistant Elementary Educational Officer,
Lathur Union,
Kancheepuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.20553/D3/2016 dated 31.08.2016 and to quash the same and consequently directing the respondents to sanction incentive increment to the petitioners for having acquired the qualification of B.Com.,/M.Com., & B.Ed., from the date of acquiring the degree or from the date of appointment whichever is earlier with all consequential benefits.

For Petitioners : Mr.G.Sankaran

For Respondents : Mr.A.Rajaperumal
Additional Government Pleader

W.P.No.43156 of 2016

1.A.Ravi

2.K.Sivashanmuga Sundaram

3.M.Tamilselvi

4.B.Umamaheswaran

Vs.

.. Petitioners

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Rep. by its Principal Secretary to Government,
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Chennai - 600 009.

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Chennai - 600 006.

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Kancheepuram District,
Kancheepuram.

4. The Assistant Elementary Educational Officer,
Walajabad Union,
Kancheepuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.20553/D3/2016 dated 31.08.2016 and to quash the same and consequently directing the respondents to sanction incentive increment to the petitioners for having acquired the qualification of B.A.,(Economics) / M.A.,(Economics) & B.Ed., from the date of acquiring the degree or from the date of appointment whichever is earlier with all consequential benefits.

For Petitioners : Mr.G.Sankaran

For Respondents : Mr.A.Rajaperumal
Additional Government Pleader

W.P.No.43157 of 2016

1.A.V.Venkatesan

2.V.Venda

... Petitioners

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
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2. The Director of Elementary Education,
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3. The District Elementary Educational Officer,
Tiruvannamalai District,
Tiruvannamalai.

4.The Assistant Elementary Educational Officer,
Pudupalayam Union,
Tiruvannamalai District.

5.The Assistant Elementary Educational Officer,
Thurunjapuram Union,
Tiruvannamalai District.

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Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.20553/D3/2016 dated 31.08.2016 and to quash the same and consequently directing the respondents to sanction incentive increment to the petitioners for having acquired the qualification of B.Com.,/M.Com., & B.Ed., from the date of

acquiring the degree or from the date of appointment whichever is earlier with all consequential benefits.

For Petitioners : Mr.G.Sankaran

For Respondents : Mr.A.Rajaperumal
Additional Government Pleader

C O M M O N O R D E R

The order of cancellation of incentive increment issued by the second respondent in proceedings dated 31.08.2016, is under challenge in these writ petitions.

2.The learned counsel appearing on behalf of the writ petitioners made a submission that the writ petitioners were appointed as Secondary Grade Teacher. The grievance of the writ petitioners are that on acquisition of additional educational qualification, incentive increment can be granted in accordance with the Government Orders, however, the incentive increment though granted by the authority competent, later came to be cancelled through the impugned order and the excess payment was also sought to be recovered. Thus, the petitioners are constrained to move these present writ petitions.

3.The issue in relation to the grant of incentive increment to the teachers working in the Educational Department on acquisition of additional educational qualification, has been decided by the Hon'ble Division Bench of this Court in Writ Appeal No.1664 of 2016 and the Judgment was delivered on 29.06.2018.

4. The Hon'ble Division Bench of this Court has considered the relevant Government orders and observed as under in paragraphs 5 to 8 which are extracted as under:

"5. Mr.K.Karthikeyan, learned Government Advocate would contend that in view of G.O.Ms.No.1024 dated 09.12.1993, which restricts the maximum number of incentive increments to two and in view of the fact that the respondent had already been granted two incentive increments, which is equivalent to four advance increments, the respondent will not be entitled any further incentive increment during the period of his service. A copy of the said G.O. dated 09.12.1993 has been produced before us, the relevant portion of the G.O. reads as follows:

The maximum number of
advance increments which a Teacher can

get under the Scheme of incentive increments under this Government Order shall be four in his entire service. (one incentive increment is equivalent to two advance increments). The said position was clarified by the Government in G.O.Ms.285, School Education Department dated 28.11.2007, which reads as follows:

As per the policy decision of the Government, two incentives (four increments) only may be granted to the teachers for the entire period of their service and hence, accepting the above recommendation of the Director of School Education, for the Headmasters who got only one incentive for M.Ed. qualification during his service as Post Graduate Teachers and promoted to the Headmaster Post and after the promotion as Headmasters, on acquiring M.Phil/Ph.D/PGDTE qualification allowing a second incentive to such Headmasters from the date of the issue of this G.O. is ordered."

6. Of course, the respondent in his affidavit filed in support of the Writ Petition has referred to certain Government Orders as well as the Orders of this Court granting a third set of incentive increments to certain teachers. The said Government Orders have also been produced before us by the learned Government Advocate, those Government orders have been passed in particular cases, considering the peculiar circumstances of the case and the fact that the higher qualification in those cases are obtained, before 09.12.1993, i.e. the date on which the first G.O. i.e. G.O.Ms.No.1023 was passed restricting the number of incentive increments to a maximum of two, during the service of the teacher. Therefore, we do not think that those Government Orders which have been passed taking note of certain special circumstances could be taken as precedents to enable the respondent to claim an incentive increment, which he would not be entitled to otherwise.

"7. The policy decision of the

Government has been consistent to the effect that the teachers who acquire higher qualifications can be granted two incentive increments equivalent to four advance increments, during the entire tenure of their service. There is no dispute regarding the fact that the respondent has been awarded two incentive increments for acquiring B.Ed. and M.A. qualifications. Therefore, he cannot, as a matter of right, claim the third set of incentive increments for having obtained M.Phil qualification. We are therefore, unable to sustain the order of the learned Single Judge directing payment of third incentive increment to the respondent.

"8. For the foregoing reasons, the Writ Appeal is allowed and the Writ Petition No.22860 of 2014 will stand dismissed. However in the circumstances without costs. Consequently, the connected miscellaneous petitions are closed."

5. Having regard to the above, now, it is made clear that the Teachers including the writ petitioners, who acquired higher qualifications, can be granted with two incentive increments equivalent to four advance increments, during the entire tenure of their service. Thus, the respondents are bound to follow the Government order referred to in the Judgment as well as the above said decision of the Hon'ble Division Bench, for the purpose of grant of the incentive increments to the writ petitioner.

6. In this view of the matter if already two incentive increments are granted, the writ petitioners are not entitled for further two incentive increments in his service, as per the Government order and as per the Hon'ble Division Bench. It is made clear that if any excess payment was paid, it is left open to the authorities to recover the same in accordance with law.

7. With these directions, these writ petitions stand dismissed. However, there shall be no order as to costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

bkn/maya

To

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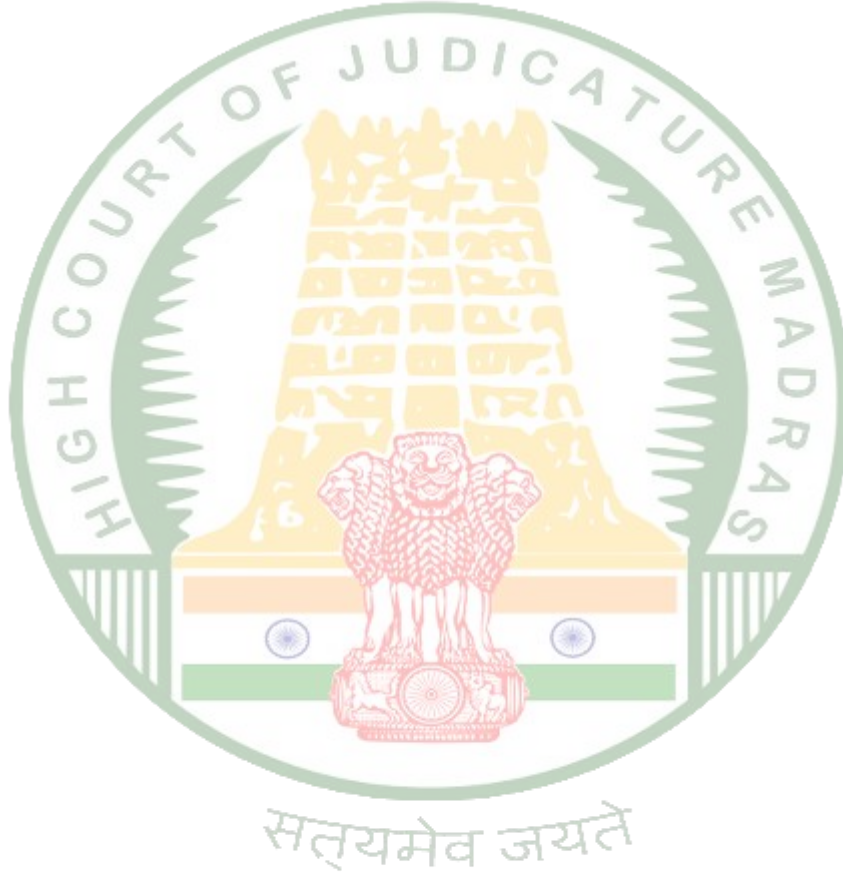
13.The Assistant Elementary Educational Officer,
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+1cc to Mr.G.Sankaran, Advocate SR.No.66030

+1cc to Government Pleader SR.No.66640

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GMV (24/10/2018)



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