

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.09.2018

CORAM

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

W.P.No.44642 of 2016

and

W.M.P.Nos.38436 & 38437 of 2016 & 16408 of 2017

S.Anantha Raj

.. Petitioner

Vs.

1. The Government of Tamilnadu,
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,
Sivagnagai District, Sivagangai.
4. The Head Master,
Government High School, Kanjiran Kulam,
Pottapalayam Post, Tirupuvanam taluk,
Sivangangai District - 630611.

... 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 of the 1st respondent in relation to the proceeding issued in letter (Ms) No.129 School Education(PK5(2)) 2013-1 dated 17.07.2013 and quash the same in so far as the petitioner is concerned and issue a consequential direction to the respondents to grant incentive increment for M.Phil degree to the petitioner from the date following last date of the examination.

For Petitioner : Mr.S.Saravanan

For Respondents : Mr.A.Rajaperumal
Additional Government Pleader

O R D E R

The relief sought for in this present writ petition is to call for the records in relation to the proceedings dated 129 School Education dated 17.07.2013 and quash the same in so far as the petitioners are concerned and issue consequential direction to the respondents for M.Phil decree for the date following the last date of examination. The very same relief

sought for in W.P.No.5446 of 2015 was considered by this Court and an order was passed on 28.08.2018 and the same is extracted hereunder:

" The relief sought for in this writ petition is to call for the records of the 1st respondent in relation to the proceedings issued in letter (Ms) No.129 School Education [PK5(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 for M.Phil. Degree from the date following the last date of the examination.

2.The learned Counsel appearing for the Writ petitioners states that two incentive increments were granted to the Writ petitioners on possessing the higher Educational qualification in accordance with the Government order. However, the writ petitioners are challenging the clarification issued by the Government in Letter No. 129, School Education (PK 5(2)) 2013-1 dated 17.07.2013, stating that the clarification states that the incentive increments should be granted from the date of the Government Order and not from the date of acquisition of the Higher Educational qualification.

3.However, the learned Government Advocate, who appears on behalf of the respondents states that no recovery proceedings are initiated.

4.However, the Learned counsel appearing for the Writ petitioner states that the benefits were already granted and by way of clarification, the respondents are attempting to take away the benefit from the writ petitioners. Such a ground raised by the writ petitioners is presumptive in nature.

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.

7. This being the factum of the case, the ground

raised in this writ petition deserves no further consideration at all. Accordingly, the writ petition stands dismissed with the above observation. No costs. Consequently connected miscellaneous petition is closed."

2. In view of the fact that the very same letter has been challenged in the present writ petition also and the consequential relief as such sought for is also similar. Hence, no further adjudication needs to be entertained in respect of the grounds raised in the writ petition and accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Government of Tamilnadu,
Principal Secretary to Government,
School Education Department, Fort St.George,
Chennai - 600 009.
2. The Director of School Education,
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Pottapalayam Post, Tirupuvanam taluk,
Sivangangai District - 630611.

+1cc to Mr.S.Saravanan, Advocate SR.NO.66418

+1cc to Government Pleader SR.NO.66641

VGII(CO)

sm:1.11.2018

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and

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