

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11-10-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.2967 of 2017

And

W.M.P.Nos.2855 and 2856 of 2017

S.Kumarappan

.. Petitioner

..Vs..

1.The Government of Tamil Nadu,
Represented by its 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 Headmaster,
Government High School,
Thiruvelangudi,
Palavangudi Post,
Sivagangai District-630 208.

.. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus calling for the records of the first 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 petitioner is concerned and consequently call for the records of the fourth respondent in relation to his proceeding issued in Na.Ka.En 120/2013 dated 16.12.2013 and quash the same and further issue a consequential direction to the respondents to grant incentive increment for M.Phil Degree to the petitioner from the following last date of the examination. [Prayer amended as per order of Court made in WMP No.4314 of 2017 in WP 2967 of 2017 dated 5.9.2018].

For Petitioner : Mr.S.Saravanan
For Respondents : Mr.K.Karthikeyan,
Government Advocate.

O R D E R

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 petitioner states that two incentive increments were granted to the Writ petitioner on possessing the higher Educational qualification in accordance with the Government Order. However, the writ petitioner is 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 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. The learned counsel appearing for the writ petitioner states that the benefits were already granted to the writ petitioner and by way of clarification, the respondents are attempting to take away the benefits from the writ petitioner. Such a ground raised by the writ petitioner 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 petitioner has 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 petitioner for continuance of the increments already granted in his 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. However, there shall be no order as to costs. Consequently connected miscellaneous petitions are also dismissed.

Sd/--

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Svn
To

- 1.The Government of Tamil Nadu,
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 Headmaster,
Government High School,
Thiruvelangudi,
Palavangudi Post,
Sivagangai District-630 208.

+1cc to MR.S.Saravanan, Advocate SR.NO.70936
+1cc to Special Government Pleader SR.NO.71078

MR(CO)
sm:22.11.2018

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