



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2018

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.8339 of 2018

and

W.M.P. (MD)No.7894 and 7895 of 2018

S.Santhi

: Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George, Chennai - 600 009.
2. The Director of Elementary Education,
College Road, Chennai - 600 006.
3. The District Elementary Educational Officer,
Tirunelveli District at Tirunelveli.
4. The Additional Assistant Elementary
Educational Officer, Kadayanallur,
Tirunelveli District.
5. The Correspondent,
Sri Sivasaila Natha Middle School,
Neduvayal - 627 801,
Tirunelveli District

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 4th respondent Additional Assistant Elementary Educational Officer in A.Thi.Mu.No.184/A2/2018 dated 06.03.2018, quash the same, and further direct the respondents to sanction two advanced increments to the petitioner for acquiring M.A. Degree w.e.f. 06.09.2009.

For Petitioner

: Mr.S.Xavier Rajini

For Respondents 1 to 4 : Mr.M.Murugan

Government Advocate



O R D E R

By consent, the writ petition is taken up for final disposal at the admission stage itself.

2. The prayer sought for in this writ petition is for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 4th respondent Additional Assistant Elementary Educational Officer in A.Thi.Mu.No.184/A2/2018 dated 06.03.2018, quash the same, and further direct the respondents to sanction two advanced increments to the petitioner for acquiring M.A. Degree w.e.f. 06.09.2009.

3. Heard Mr.S.Xavier Rajini, learned Counsel appearing for the petitioner and Mr.M.Murugan, learned Government Advocate appearing for the official respondents.

4. The short facts which are required to be noticed for the disposal of this writ petition are as follows:

4.1. The petitioner was initially appointed and joined as a Secondary Grade Teacher on 02.08.1993 at A.V.S. Middle School, Puliangudi, Tirunelveli District. He possessed the qualification of B.Sc., and B.Ed., degree at the time of appointment and his appointment was also approved.

4.2. As per the Government order, the higher qualification acquired by the Teachers will carry the incentive increment.

4.3. While so, the petitioner had acquired M.A. (History) in November 2009. Therefore, she would become eligible to get incentive increment. When such request was made, the same was turned down by impugned order dated 06.03.2018.

5. The learned Counsel for the petitioner would submit that the issue raised in this writ petition is covered by a number of decisions. In similar circumstances, I have considered the issue in **W.P. (MD) No.12430 of 2015**, in **V.Appavoo Vs. The Assistant Director of Elementary Education (Administration), Chennai - 600 006 and others**. Therefore, relying upon the said decision, the learned Counsel seeks the present relief.

6. I have heard Mr.M.Murugan, learned Government Advocate appearing for the official respondents, in this regard, who would submit that the issue raised in this writ petition is covered by the said decision of this Court.

7. In the said decision cited above, after having analysed the issue, this Court has passed the following order.



"17. In so far as the further argument of the learned Additional Government Pleader that the two Government Orders, namely G.O.Ms.No.1170, Education Department dated 20.12.1993 as well as G.O.Ms.No.194, School Education Department dated 10.10.2006 would not be made applicable to the case of the petitioner is concerned, even such objection in the opinion of this Court, may not be sustainable because in the two judgments relied on by the petitioner's side all these issues have been exhaustively discussed and decided. In a case of a Physical Education Teacher, the issue of grant of advance incentive increment for acquiring higher qualification has also been considered and decided in favour of the Teacher concerned. Also, a Tamil Pandit, as well as B.T Teacher has been considered for grant of advance incentive increment for acquiring higher qualification. Therefore the said argument that the relevant Government Orders namely G.O.Ms.No.1170, Education Department dated 20.12.1993 as well as G.O.Ms.No.194, School Education Department dated 10.10.2006, would not be made applicable to the case of the petitioner is concerned, is also liable to be rejected as without the aid of the said Government Orders the petitioner can independently claim the third set of advance incentive increment for acquiring the higher qualification, namely, M.Phil degree. The only aid that the petitioner can take it from G.O.Ms.No.194, School Education Department dated 10.10.2006 is that the hurdle created in G.O.Ms.No.1170, Education Department dated 20.12.1993 by putting a cut of date 01.03.1993 since has been removed or deleted by G.O.Ms.No.194, School Education Department dated 10.10.2006, at paragraph No.4. Therefore on that score it cannot be said that only on the strength of G.O.Ms.No.1170, Education Department dated 20.12.1993 as well as G.O.Ms.No.194, School Education Department dated 10.10.2006 alone the petitioner is claiming her advance incentive increment for acquiring the qualification of M.Phil as a third set of incentive increment. Therefore all the contentions raised by the respondents' side, since has been covered by the said decisions of this Court, as has been referred to above, are liable to be rejected. Therefore, accordingly they are rejected.

<https://hcservices.ecourts.gov.in/hcservices> 18. In the result, this Court is of the view that the petitioner's request for grant of third advance incentive increment for acquiring M.Phil degree



qualification can very well be considered by the respondents.

19. Resultantly, the following orders are passed in this Writ Petition:-

(i) The third respondent is directed to consider the request of the petitioner, dated 06.10.2014 seeking for third advance incentive increment for acquiring M.Phil qualification from 02.04.2009.

(ii) Since the representation of the petitioner is dated 06.10.2014, a copy of the same shall be forwarded by the petitioner to the third respondent along with the copy of the Writ Appeal Judgment in W.A(MD)No.867 of 2014 immediately within a period of one week from the date of receipt of a copy of this order.

(iii) On receipt of the same, while making consideration of the representation of the petitioner, the third respondent shall take into account the Division Bench Judgment of this Court in W.A(MD)No.867 of 2014, dated 18.09.2014 and pass orders for grant of third advance incentive increment for the petitioner for the aforesaid qualification of M.Phil degree from the said date ie., 02.04.2009 and accordingly calculate the pay and arrears payable to the petitioner and pay the same within eight weeks thereafter.

(iv) With these directions, this Writ Petition is disposed of. No costs.?

8. In view of the settled legal position that the Teacher, who acquired higher qualification would be entitled for incentive increment and in very many other cases, such incentive increment for acquiring higher qualification, as acquired by the petitioner was granted. Therefore, no doubt, the petitioner would be eligible for the incentive increment, which shall not be rejected / refused by the respondents.

9. In view of the above, this Court is of the view that, the impugned order shall not stand in the legal scrutiny and therefore, it is liable to be quashed. Accordingly, the impugned order is quashed. And there shall be a direction to the respondents to sanction the incentive increment to the petitioner for having acquired the higher qualification, namely M.A. (History) with effect from 06.09.2009 and the monetary benefits shall be calculated thereon and be paid to the petitioner within a period of six weeks from the date of receipt of a copy of this



10. With the above direction, this writ petition is allowed. However, in the circumstances of the case, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai - 600 009.
 2. The Director of Elementary Education,
College Road, Chennai - 600 006.
 3. The District Elementary Educational Officer,
Tirunelveli District at Tirunelveli.
 4. The Additional Assistant Elementary
Educational Officer, Kadayanallur,
Tirunelveli District.
- + 1 cc TO Mr.S.Xavier Rajini , Advocate in SR No. 62445

MR

AE/SV/SAR4/23.07.2018/5P/6C

**ORDER MADE IN
W.P. (MD) No.8339 of 2018
19.04.2018**