



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2018

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A. (MD) .Nos.895 of 2013 and 336, 874 and 1190 of 2016 and

M.P. (MD) No.2 of 2013

C.M.P. (MD) Nos.1927, 5243 and 7769 of 2016

W.A. (MD) No.895 of 2013:

1. The Director of Elementary Education,
Chennai.
2. The District Elementary Education Officer,
Sivagangai,
Sivagangai District.
3. The Assistant Elementary Education Officer,
Devakottai 630 302,
Sivagangai District. ... Appellants

Vs.

1. The Correspondent,
St. Joseph Middle School,
Devakottai Extention,
Sivagangai District.
2. S.Saleth Mary ... Respondents

PRAYER: This appeal is filed under Clause 15 of the Letters Patent, to set aside the order in W.P. (MD) No.1049 of 2012 dated 17.07.2012.

Prayer in WP (MD) No.1049/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the third respondent in A.Thi.Mu.No.2047/A1/11 dated09.2011 and quash the same and direct the respondents to sanction second incentive increment to the petitioner for M.A. degree.



For Respondent No.1 : No Appearance
For Respondent No.2 : Mr.V.Panneer Selvam

W.A. (MD) No.336 of 2016:

1. The District Elementary Education Officer,
Thoothukudi.
2. The Assistant Elementary Education Officer,
Tiruchendur,
Thoothukudi District. ... Appellants

Vs.

1. J.Alexandria Remy Jhansi Rani
2. The Correspondent,
Antony's R.C. Middle School,
Puthukinathanvilai, Pitchivilai,
Thoothukudi District. ... Respondents

PRAYER: This appeal is filed under Clause 15 of the Letters Patent, to set aside the order in W.P.(MD)No.21895 of 2015 dated 08.12.2015.

Prayer in WP(MD)No. 21895/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Certiorarified Mandamus in the nature of writ calling for the records pertaining to the order passed by the 2nd respondent in his proceedings in Na.Ka.No.149/A1/2015 dated 18.03.2015 and quash the same and direct the respondents to sanction incentive increment for M.Sc., Degree and confer all the consequential benefits and pass such further or other orders.

For Appellants	: Mr.D.Muruganantham Additional Government Pleader
For Respondents	: Mr.V.Panneer Selvam

W.A. (MD) No.874 of 2016:

1. The Director of Elementary Education,
College Road, Chennai- 600 006.
2. The District Elementary Education Officer,
Sivagangai,
Sivagangai District.

3. The Assistant Elementary Education Officer,
Devakottai 630 302,



Sivagangai District.

... Appellants

Vs.

1. A.Mary

2. The Correspondent,
St. Joseph Middle School,
Sarugani,
Devakottai (Taluk),
Sivagangai District.

... Respondents

PRAYER: This appeal is filed under Clause 15 of the Letters Patent, to set aside the order in W.P.(MD)No.6043 of 2010 dated 23.04.2012.

Prayer in WP(MD)No.6043/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARI FIED MANDAMUS calling for the records relating to the impugned proceedings issued by the 3rd respondent in O.Mu. 472 A2/2010 dated 15.03.2010 and quash the same as illegal and consequently to direct the respondents to pay the petitioner, the incentive increment for the higher educational qualification of M.Ed., degree acquired by the petitioner.

For Appellants	: Mr.D.Muruganantham Additional Government Pleader
For Respondent No.1	: Mr.Mohammed Imran For M/s.Ajmal Associates
For Respondent No.2	: No Appearance

W.A. (MD)No.1190 of 2016:

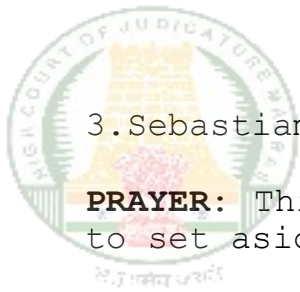
1. The Director of Elementary Education,
College Road, Chennai- 600 006.
2. The District Elementary Education Officer,
Sivagangai, Sivagangai District.
3. The Assistant Elementary Education Officer,
Devakottai 630 302,
Sivagangai District.

... Appellants

Vs.

1. The Correspondent,
St. John De Britto Middle School,
Puliyal, Devakottai Taluk,
Sivagangai District.

2.S.Odeliarosali



3. Sebastiammal

... Respondents

PRAYER: This appeal is filed under Clause 15 of the Letters Patent, to set aside the order in W.P.(MD)No.13088 of 2009 dated 23.07.2012.

Prayer in WP(MD)No.13088/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARI FIED MANDAMUS, calling for the records relating to the impugned proceedings issued by the 3rd respondent in A.THI.MU.No.1777/Aa2/09 dated 10-11-2009 and quash the same as illegal and consequentially to direct the respondents to pay to the petitioners the incentive increments for the higher educational qualification of M.Ed., degree obtained by the petitioners.

For Appellants	: Mr.D.Muruganantham Additional Government Pleader
For Respondent No.1	: Mr.Mohammed Imran For M/s.Ajmal Associates
For Respondent No.2	: No Appearance

COMMON JUDGMENT

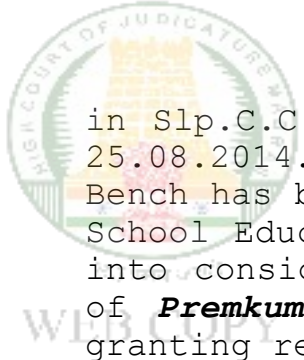
(Judgment of the Court was delivered by T.S.SIVAGNANAM, J)

Heard the learned counsel appearing for the appellants and the learned counsel for the respondents.

2.In these appeals, a common issue arises for consideration, namely, as to whether the respondents are entitled for incentive increment on account of acquiring higher qualification such as, M.Sc., and M.Ed.

3.The reason for refusing the incentive increment is on ground that the writ petitioners when they were appointed had given an undertaking that they will not claim incentive increment when they acquire higher qualification.

4.Similar issue was considered by the Division Bench in the case of **State of Tamil Nadu v. Louis** in **W.A.(MD)No.511 of 2011 dated 27.06.2011**. After considering the objections raised by the Government, which is similar to objections raised in these appeals, the Court pointed out that the respondent therein, had acquired higher qualification M.Sc., and M.Ed., and acquiring higher education will not prevent the writ petitioners from claiming the incentive increment for higher qualification. Therefore, the order passed by the writ Court, granting relief to the teacher was affirmed and the appeal filed by the State was dismissed. The State preferred a special leave petition before the Hon'ble Supreme Court



in Slp.C.C.No.13056 of 2014, which was dismissed by an order dated 25.08.2014. It is seen that the judgment rendered by the Division Bench has been implemented by the Government in G.O.Ms.No.(3d) No.13 School Education Department, dated 06.02.2015. The writ Court, took into consideration, the decision of the Division Bench in the case of **Premkumari v. State of Tamil Nadu (2008 (5) MLJ 1349)**, while granting relief to the writ petitioners.

5.In the light of the above, we do not find any merit in the appeals filed by the State. Accordingly these appeals are dismissed. No Costs. Consequently, M.P.(MD)No.2 of 2013 and C.M.P.(MD)Nos.1927, 5243 and 7769 of 2016 are closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Director of Elementary Education,
Chennai.
2. The District Elementary Education Officer,
Sivagangai,
Sivagangai District.
3. The Assistant Elementary Education Officer,
Devakottai 630 302,
Sivagangai District.
4. The District Elementary Education Officer,
Thoothukudi.
5. The Assistant Elementary Education Officer,
Tiruchendur, Thoothukudi District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 53297
 + 2 CC TO M/s.AJMAL ASSOCIATES, IN SR No. 53133 & 53131
 + 2 CC TO Mr.V.PANNEER SELVAM, ADVOCATE IN SR No. 53185 & 53184

MRN

TE/SKN-RSK/SAR-3 : 12/04/2018 : 5P/11C

W.A.(MD).Nos.895 of 2013 and 336, 874 and 1190 of 2016
 05.03.2018