



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.5789 of 2013

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S.Joseph Alphonse Raj

... Petitioner

Vs.

1.The 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 Joint Director of School Education,  
(Higher Secondary)  
College Road,  
Chennai - 600 006.

4.The Joint Director,  
(Vocational Education)  
College Road,  
Chennai - 600 006.

5.The Chief Educational Officer,  
Tirunelveli,  
Tirunelveli District.

6.The District Educational Officer,  
Cheran Mahadevi Educational District,  
Cheran Mahadevi,  
Tirunelveli District.

7.The Correspondent,  
Sarguna Sathya Vidyalaya Higher Secondary School,  
Mathapattanam,  
Koviluthu, Alangulam Taluk,  
Tirunelveli District.

8.The Accountant General (AE),  
Office of the Accountant General,  
Chennai - 18.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned G.O. Ms. No. 240 School Education Department, dated 18.08.2010 on the file of the Respondent



O R D E R

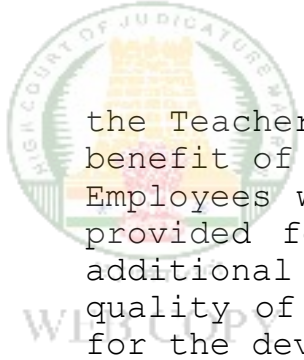
2.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner was initially appointed as part time Vocational Instructor on 23.07.1980 and thereafter, absorbed as double part time Vocational Instructor. The writ petitioner was absorbed in the regular post of Vocational Instructor with effect from 01.04.1990 and was serving in Sarguna Sathya Vidyalaya Higher Secondary School, Mathapattinam. The writ petitioner was allowed to retire from service on 31.05.2009 on attaining the age of superannuation.

3.The grievance of the writ petitioner is that he acquired the educational qualification of M.Com., and M.Ed. Therefore, he must be granted with the incentives increment provided in G.O.Ms.No.240, School Education Department, dated 18.08.2010 with effect from in the year 1990 onwards. The writ petitioner claims incentives increment from the date of acquisition of additional qualification by him.

4. The learned Special Government Pleader appearing on behalf of the respondents 1 to 6 opposed the contention by stating that the writ petitioner is not at all eligible for incentive increment. The writ petitioner was allowed to retire from service on 31.05.2009 and the Government has sanctioned the policy of incentives increment only in G.O.Ms.No.240, dated 18.08.2010 and the orders states that the benefit should be granted from the date of issuance of the Government Order. The writ petitioner was not at all in the service at the time of passing of the Government Order and therefore, he is not entitled for grant of incentive increments for having acquired additional qualification.

<https://hcservices.ecourts.gov.in/hcservices/>

5. This Court is of an opinion that the incentives increments for acquiring additional qualification is a concession extended to



the Teachers working in Educational Department by the State. Such a benefit of incentives increments are not granted to other Government Employees working in other Departments. It is a special concession provided for the purpose of encouraging the Teachers to acquire additional educational qualification enabling them to improve the quality of education and contribute their knowledge to the students for the development of educational system.

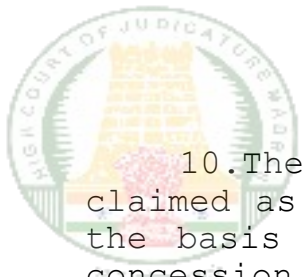
6.The annual increments are granted to all the Government Employees as per the rules in force. Along with the regular annual increments, two additional increments are granted for the Teachers alone. Two increments are granted for one incentive and therefore, the Teacher, who has acquired additional qualification will be getting four increments as two incentives. In addition to the regular annual increments and the Teacher is possessing additional qualification is getting four additional increments and therefore, the monitory benefits granted to the Teachers are certainly concession provided by the State. When it is a concession, this Court is of an opinion that the same is to be granted strictly in accordance with the terms and conditions stipulated in the Government Order.

7.Granted incentive increments to the Teachers by the State is a policy decision. The policy decision cannot be extended or enlarged by the Courts. The policy decisions by way of special concession extended to class of people is to be granted strictly in its terms and conditions. By enlarging the scope of the policy decision, the State will suffer financial constraints. By enlarging the scope of the scheme, the authorities and the Courts cannot create further expenditures to the State exchequer.

8.Whenever the question of grant of monitory benefits arises, the Courts has to consider the financial implications of the State policy. The Hon'ble Supreme Court of India time and again emphasized with the financial implications and constraints are also to be considered, while granting the monitory benefits to the Government employees.

9.In respect of the present writ petition, the Government issued G.O.Ms.No.240, dated 18.08.2010 as far as the

Vocational Instructor working in School or concerned. Therefore, the said G.O., was issued only for the benefit of Vocational Instructor working in Government schools. However, the scheme of incentives increments was introduced for the Vocational Instructor first time the Government thought fit to grant monitory benefits with effect from the date of the issuance of the Government Order. Thus, it is the policy decision taken by the Government taking into account the financial constraints. If the benefits are extended with retrospective effect and this Court is of an opinion that the same will have huge monitory implications. The Courts cannot enlarge the scope of the Government Order in this regard.



10. The scheme of incentives being a concession cannot be claimed as a matter or right. The concession has to be availed on the basis of the terms and conditions stipulated. However, such concession cannot constitute right and the Government can even cancel the concession granted in respect of these Teachers. Such schemes are to be implemented in its terms and conditions and therefore, the cut off date fixed by the Government in this regard cannot be set to be illegal.

11. The learned counsel for the writ petitioner referred to the order passed by this Court on 16.04.2012 in W.P.(MD) No.960 of 2011, paragraphs 9 and 10 of the above judgment are extracted here under:

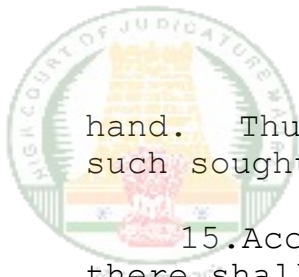
*9. It is not in dispute that other teachers are granted incentive increments from the date on, which they acquired higher qualification. If those teachers acquired higher qualification, even before joining service, they are given incentive increment from the date of joining service. It is so, it is not fair to deny the same to the petitioners. In fact, the Vocational Teachers were also granted incentive increments, but the same was withdrawn by the authorities leading to the filing of batch of writ petitions and the batch was allowed as stated above.*

*10. In these circumstances, I am of the view that the first respondent is not correct in treating the vocational teachers differently. Therefore, the portion of the impugned order, which restricts the payment of incentive increments only from the date of issuing of the order for acquiring the higher qualification is quashed and the writ petition is allowed as prayed for.*

12. The learned counsel for the writ petitioner states that a particular portion of G.O., was already quashed. However, the above said judgment may not have any implication in respect of the facts and circumstances of the present writ petition, in view of the fact that the writ petitioner retired from service on 31.05.2009 itself. Therefore, the very benefit granted in the G.O., cannot be granted to the writ petitioner.

13. On a perusal of the Government Order, it is very clearly enumerated that the incentive increments are to be granted in respect of the Vocational Instructor, who are in service. The G.O., repeatedly emphasised with the Vocational Teachers, who are in service alone are entitled for the incentive increments to be granted for acquiring additional qualification. Thus, the G.O. Ms.No.240, School Education Department, dated 18.08.2010, is not applicable to the writ petitioner.

14. As far as the writ petitioner is concerned, he had retired from service on 31.05.2009 before the issuance of G.O. Ms.No.240, dated 18.08.2010. Thus, the claim of the writ petitioner deserves no consideration at all. The judgment cited also may not have any application in respect of the facts and circumstances of the case on



hand. Thus, the writ petitioner is not entitled for the relief as such sought for in this writ petition.

15. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

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Sd/  
Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar

To

1. The Secretary to Government,  
School Education Department,  
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6. The District Educational Officer,  
Cheran Mahadevi Educational District,  
Cheran Mahadevi,  
Tirunelveli District.
7. The Account General (A&E),  
Office of the Account General, Chennai-18.

+1cc to M/s. Special Government Pleader, SR.No. 56771  
+1cc to Mr. T. Lajapathi Roy, Advocate, SR.No. 56618  
+1cc to Mr. P. Gunasekaran, Advocate, SR.No. 56879

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