

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2019

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.15859 of 2014

and

M.P.No.2 of 2014

1 M.Mugunthamadhavan
2 P.Paneerselvam
3 E.Nagalingam
4 M.Senthilkumar
5 P.Murugan Petitioners

Vs.

- 1 The State of Tamil Nadu
Rep. by its Secretary to Govt.,
School Education Department,
Secretariat, Fort St.George,
Chennai 600 009.
- 2 The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
- 3 The Chief Educational Officer,
Dharmapuri District,
Dharmapuri.
- 4 The District Educational Officer,
Dharmapuri District,
Dharmapuri.
- 5 The Headmaster,
Government Boys Higher Secondary
School,
Karimangalam, Dharmapuri District.
- 6 The Headmaster,
Government Higher Secondary School,
V.Muthampatti,
Dharmapuri District.

- 7 The Headmaster,
Government High School,
Thammanampatti,
Dharmapuri District.
- 8 The Headmaster,
Government Higher Secondary School,
Periyampatti,
Dharmapuri District.
- 9 The Headmaster,
Government High School,
Kamalapuraim,
Dharmapuri District. Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, to call for the records relating to the impugned proceedings issued by the first respondent in letter Ms.No.129 School Education (Pa.Ka.5(2) 2013-1, dated 17.7.2013 and to quash the same.

For Petitioner : Mr.S.Nedunchezhiyan
For Respondents : Mr.K.Karthikeyan, G.A.

O R D E R

According to the petitioner, the Government issued orders in G.O.Ms.No.42 Education department, dated 10.1.1969 to grant incentive increment to the teachers working in Government and Government aided schools on acquiring higher qualification. Subsequently, orders were passed by the State Government in G.O.Ms.No.1023, Education department, dated 19.12.1993 and G.O.Ms.No.1024 Education department, dated 19.12.1993 restricting the maximum number of advance incentive increment application to a teacher as four. Petitioners herein having qualified with M.Phil, degree were sanctioned with incentive increment as per G.O.(1D) No.13 School Education department, dated 18.1.2013 from the last examination of M.Phil, degree. The details of the date of granting of incentive increment for the petitioners are given as below:

Sl.No.	Name of the Teacher	M.Phil., completion year
1.	N.Mugunthamadhavan	September, 1998
2.	P.Panneerselvam	October, 2007
3.	E.Nagalingam	June, 2007
4.	M.Senthilkumar	June, 2007
5.	P.Murugan	June, 2008

All the aforesaid petitioners were drawing the incentive

increments for the higher qualification of M.Phil., degree acquired by them from the date of examination of M.Phil., degree, the impugned order has been passed by the first respondent stating that the grant of incentive increment for M.Phil.,/ Ph.D., degree will be available to the teachers only from the date of Government order i.e. with effect from 18.01.2013. According to the petitioner, since the petitioners have already been granted with incentive increment from the date of acquiring the degree, the incentive increment granted to them till the issuance of Government order is sought to be recovered. Therefore, the impugned order passed by the first respondent is illegal, arbitrary and against law. Therefore, the petitioner has filed the present writ petition before this Court to set aside the impugned order.

2 In support of his contention, the learned counsel appearing for the petitioners relied upon the judgment of the Division Bench of this Court in The Director of School Education and two others vs. V.Dhanapal (W.A.No.1664 of 2016, dated 29.6.2018), wherein this Court held that two incentive increment is equivalent to two advance increments and two incentive increments may be granted to the teachers for the entire period of their service. Further, the petitioners were granted second incentive increment prior to 18.1.2013. Therefore, the impugned order passed by the first respondent stating that the petitioners are entitled for second incentive increment only from the date of issuance of G.O.(1D) No.18 viz., 18.1.2013 is liable to be quashed.

3. In the light of the aforesaid judgment, the petitioners are entitled for second incentive increment from the date of examination. The learned Government Advocate has not disputed the aforesaid fact and also the judgment of the Division Bench of this Court cited supra, would apply to the facts of the present case, as the petitioners have availed only two incentive increments.

4. In the facts and circumstances of the case and the decision cited supra, the impugned order passed by the first respondent, dated 17.7.2013 is quashed. Consequently, the writ petition is allowed. No Costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CJ Conf)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Secretary to Govt.,
State of Tamil Nadu,
School Education Dept.,
Secretariat, Fort St.George,
Chennai 600 009.
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- 3 The Chief Educational Officer,
Dharmapuri District, Dharmapuri.
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+1cc to Mr.G.Sankaran, Advocate, S.R.No. 30207

+1cc to the Government Pleader, S.R.No. 31066

W.P.No.15859 of 2014
and M.P.No.2 of 2014

SSI (CO)
GN(04/06/2019)