

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.27915, 27919, 27920 & 27922 of 2018

R.Geetha ...Petitioner in
W.P.No.27915/2018

M.Sivagami ...Petitioner in
W.P.No.27919/2018

R.Anbalagan ...Petitioner in
W.P.No.27920/2018

N.S.Devakumaran ...Petitioner in
W.P.No.27922/2018

Vs

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006. ...Respondents in
(all W.P.No.s)

3.The District Elementary Educational Officer,
Thiruvallur District,
Thiruvallur.

4.The Additional Assistant Elementary
Educational Officer,
Poondy Union,
Thiruvallur District. ...Respondents
in W.P.No.27915/2018

3.The District Elementary Educational Officer,
Thiruvallur District,
Thiruvallur.

4.The Additional Assistant Elementary Educational Officer,
Poondy Union,
Thiruvallur District.

...Respondents
in W.P.No.27919/2018

3.The District Elementary Educational Officer,
Nagapattinam District,
Nagapattinam.

4.The Block Educational Officer,
Thalanayar Block,
Nagapattinam District.

...Respondents
in W.P.No.27920/2018

3.The District Elementary Educational Officer,
Kancheepuram District,
Kancheepuram.

4.The Assistant Elementary Educational Officer,
Kattankolathur Union,
Kancheepuram District.

...Respondents
in W.P.No.27922/2018

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writs of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 1st respondent in Letter Nos.3702/Tho.ka(2)/2017 dated 10.10.2017, 3702/Tho.ka(2)/2017 dated 10.10.2017, 3702/Tho.ka1(2)/2017 dated 10.10.2017 and 3702/Tho.ka(2)/2017 dated 10.10.2017 respectively, and the consequential impugned proceedings issued by the 4th respondent in Na.Ka.No.15/A2/2018 dated 16.04.2018, Na.Ka.No.15/A2/2018 dated 16.04.2018, Na.Ka.No.1369/2018/A1 dated 25.06.2018 and Na.Ka.No.53/A2/2018 dated 16.04.2018 respectively, and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioners for acquiring B.Ed., degree with revision scale of pay with reference to recommendations of VIIth Pay Commission.

For Petitioners:Mr.S.Nedunchezhiyan [In all WPs]

For Respondent : Mr.A.Raja Perumal [In all WPs]
Additional Government Pleader

COMMON ORDER

The orders of cancellation of incentive increment issued by the first respondent in proceedings dated 10.10.2017, are under challenge in these writ petitions.

2.The learned counsel appearing on behalf of the writ petitioners made a submission that the writ petitioners were appointed as Secondary Grade Teachers and subsequently, they were promoted to the post of B.T. Assistants. The grievances of the writ petitioners are that on acquisition of additional educational qualification, incentive increments can be granted in accordance with the Government Orders. However, the incentive increment though granted by the authorities competent, later came to be cancelled through the impugned orders and the excess payments were also sought to be recovered. Thus, the petitioners are constrained to move these writ petitions.

3.The issue in relation to the grant of incentive increment to the Teachers working in the Educational Department on acquisition of additional educational qualification, has been decided by the Hon'ble Division Bench of this Court in Writ Appeal No.1664 of 2016 and the Judgment was delivered on 29.06.2018. The Hon'ble Division Bench of this Court has considered the relevant Government orders and observed as under in paragraphs 5 to 8, which are extracted as under:

"5. Mr.K.Karthikeyan, learned Government Advocate would contend that in view of G.O.Ms.No.1024 dated 09.12.1993, which restricts the maximum number of incentive increments to two and in view of the fact that the respondent had already been granted two incentive increments, which is equivalent to four advance increments, the respondent will not be entitled any further incentive increment during the period of his service. A copy of the said G.O. dated 09.12.1993 has been produced before us, the relevant portion of the G.O. reads as follows:

The maximum number of advance increments which a Teacher can get under the Scheme of incentive increments under this Government Order shall be four in his entire service. (one incentive increment is equivalent to two advance increments). The said position was clarified by the Government in G.O.Ms.285, School

Education Department dated 28.11.2007, which reads as follows:

As per the policy decision of the Government, two incentives (four increments) only may be granted to the teachers for the entire period of their service and hence, accepting the above recommendation of the Director of School Education, for the Headmasters who got only one incentive for M.Ed. qualification during his service as Post Graduate Teachers and promoted to the Headmaster Post and after the promotion as Headmasters, on acquiring M.Phil/Ph.D/PGDTE qualification allowing a second incentive to such Headmasters from the date of the issue of this G.O. is ordered."

6. Of course, the respondent in his affidavit filed in support of the Writ Petition has referred to certain Government Orders as well as the Orders of this Court granting a third set of incentive increments to certain teachers. The said Government Orders have also been produced before us by the learned Government Advocate, those Government orders have been passed in particular cases, considering the peculiar circumstances of the case and the fact that the higher qualification in those cases are obtained, before 09.12.1993, i.e. the date on which the first G.O. i.e. G.O.Ms.No.1023 was passed restricting the number of incentive increments to a maximum of two, during the service of the teacher. Therefore, we do not think that those Government Orders which have been passed taking note of certain special circumstances could be taken as precedents to enable the respondent to claim an incentive increment, which he would not be entitled to otherwise.

"7. The policy decision of the Government has been consistent to the effect that the teachers who acquire higher qualifications can be granted two incentive increments equivalent to four advance

increments, during the entire tenure of their service. There is no dispute regarding the fact that the respondent has been awarded two incentive increments for acquiring B.Ed. and M.A. qualifications. Therefore, he cannot, as a matter of right, claim the third set of incentive increments for having obtained M.Phil qualification. We are therefore, unable to sustain the order of the learned Single Judge directing payment of third incentive increment to the respondent.

"8. For the foregoing reasons, the Writ Appeal is allowed and the Writ Petition No.22860 of 2014 will stand dismissed. However in the circumstances without costs. Consequently, the connected miscellaneous petitions are closed."

4.Having regard to the above, now, it is made clear that Teachers including the writ petitioners, who acquired higher educational qualifications, can be granted two incentive increments equivalent to four advance increments, during the entire tenure of their service. Thus, the respondents are bound to follow the Government orders referred to in the Judgment as well as the above said decision of the Hon'ble Division Bench, for the purpose of grant of the incentive increments to the writ petitioners.

5.In this view of the matter, if already two incentive increments are granted, the writ petitioners are not entitled for further incentive increments in their services, as per the Government order and as per the Hon'ble Division Bench. It is made clear that if any excess payment was paid, it is left open to the authorities to recover the same in accordance with law.

6.With these directions, the writ petitions stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

- 1.The Principal Secretary to Government,
The State of Tamil Nadu,
School Education Department,
Secretariat, Fort St.George,
Chennai - 600 009.
- 2.The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.
- 3.The District Elementary Educational Officer,
Thiruvallur District,
Thiruvallur.
- 4.The Additional Assistant Elementary
Educational Officer,
Poondy Union, Thiruvallur District.
- 5.The District Elementary Educational Officer,
Nagapattinam District,
Nagapattinam.
- 6.The Block Educational Officer,
Thalanayar Block,
Nagapattinam District.
- 7.The District Elementary Educational Officer,
Kancheepuram District,
Kancheepuram.
- 8.The Assistant Elementary Educational Officer,
Kattankolathur Union,
Kancheepuram District.

+4cc to M/S.G.Sankaran, Advocate Sr.26198
+1cc to the Government pleader Sr.26803.

W.P.Nos.27915, 27919,
27920 & 27922 of 2018

ad[co]
srg 6/5/2019