



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2019

CORAM

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THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD)No.4103 of 2013

Joy Selvakumari

:Petitioner

vs.

1.The Director of School Education,
Chennai- 600 006.

2.The Chief Educational Officer,
Chief Educational Office,
Collectorate Campus
Karur.

:Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue Writ of Certiorarified Mandamus, to call for the records of the second respondent by its proceedings in R.C.No.7021/A2/2011, dated 12.04.2012 and to quash the same and consequently, to direct the second respondent to pay incentive increments on the basis of petitioner's acquiring higher qualification in the field of Physical Education (M.Phil), in the light of G.O.Ms.No.1170, dated 20.12.1993, G.O.Ms.No.324, dated 25.04.1995 and G.O.Ms.No.194, dated 10.10.2006.

For Petitioner

:Ms.M.Padmavathy

For Respondents

:Mr.N.Shanmugaselvam

Additional Government Pleader

ORDER

This Writ Petition is filed to issue a Writ of Certiorarified Mandamus, to quash the proceedings of the second respondent, dated 12.04.2012 and to direct the respondents to pay incentive increment on the basis of the petitioner's higher qualification.

2.The petitioner was working as Physical Director Grade-I for the past 21 years at Government Girls Higher Secondary School, Kulithalai, Karur District. The petitioner also retired from service on 31.05.2010. It is stated that the petitioner has completed the degree of Master of Philosophy (M.Phil) in the field of Physical Education in the year 1996 at Bharathidasan University, Trichy. It is stated further that the petitioner is entitled to an



incentive increment for having higher qualification, as per G.O.Ms.No.1170, dated 20.12.1993. It is stated that as per the said G.O., the persons with qualification of M.Phil, is entitled to one incentive increment from a specified date. Similarly, it is admitted that G.O.Ms.No.324, dated 25.04.1995 enables the Physical Education Teachers to get one incentive increment for higher qualification, if their higher qualification is in the field of physical education.

3.Stating that the petitioner is entitled to an incentive increment for acquiring M.Phil, the petitioner has approached the respondents by representation, dated 06.06.2011. Earlier, the petitioner filed a writ petition for granting incentive increment for possessing of M.Phil degree in the light of G.O.Ms.No.324, dated 25.04.1995. The Writ Petition came to be dismissed on the ground of laches and delay. However, the petitioner filed an appeal in W.A. (MD)No.1502 of 2011 and the Writ Appeal was disposed of by Honourable Division Bench of this Court with a direction to the respondents to consider the representation of the petitioner in the light of G.O.Ms.No.1117 and 194. However, pursuant to the direction of this Court, the second respondent passed the impugned order rejecting the request of the petitioner to sanction incentive increment. Aggrieved by same, the above writ petition is filed.

4.In the impugned order, Government Order vide G.O.Ms.No.1170, dated 20.12.1993 and G.O.Ms.No.194, dated 10.10.2006 are referred to and it is stated that the Government orders are not applicable to Physical Directors Grade-I. However, the Government Order clearly stipulates that Physical Education Teachers are eligible for the incentive increment for higher qualification provided their higher qualification is in physical education. In this case, the petitioner's higher qualification of M.Phil is in the field of physical education and hence, there cannot be an objection regarding the applicability of G.O.Ms.No.324, dated 25.04.1995

5.The learned Additional Government Pleader submitted that though there is reference to Physical Education Teacher in G.O.Ms.No.324, dated 24.09.1995, the petitioner, who is a Physical Director is not eligible as per G.O.Ms.No.324. The second respondent has filed a detailed counter stating that the petitioner was a Physical Director Grade-I and that incentive increment for acquiring higher qualification can be granted only to the P.G.Assistant, who are teaching subjects and not for Physical Education Teachers, who comes under technical side. It is further stated that the Government have passed only an order in favour of P.G. Teachers and not for Physical Education Teachers or Physical Director. It is the specific contention of the second respondent that the Physical Director Grade-I post comes under the category of technical side and the petitioner and similarly placed persons are not engaged for teaching students.



6.The contention of the second respondent is quiet surprising. The Physical Education Teacher and Physical Education Director are also appointed only to teach students and it is not a technical post, as suggested by the second respondent. Secondly, the position is clarified by the Government vide G.O.Ms.No.324, wherein, the Government has categorically held that Physical Education Teachers are entitled to incentive increment for acquiring higher qualification in the field of physical education. The petitioner had acquired higher qualification in physical education while in service. Hence, the impugned order rejecting the request of the petitioner by referring to G.O.Ms.No.1170 dated 20.12.1993 and G.O.Ms.No.194, dated 10.10.2006 is improper and arbitrary. The order of second respondent ignoring the relevant Government Order vide G.O.Ms.No.324, dated 25.04.1995 with a wrong notion about the object behind the sanction of incentive increment to teachers, having higher qualification is unsustainable.

7.Accordingly, this Writ Petition is allowed and the impugned order passed by the second respondent, dated 12.04.2012 is set aside. The second respondent is directed to pay incentive increment to the petitioner for having higher qualification in the field of Physical Education from August'1996, the date in which the petitioner obtained the degree certificate within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Director of School Education,
Chennai- 600 006.

2.The Chief Educational Officer,
Chief Educational Office,
Collectorate Campsm
Karur.

+1 CC to Mr.M.PADMAVATHY, Advocate (SR-93922[F] dated 23/10/2019)
+1 CC to M/s.SPL GP (SR-94675[F] dated 25/10/2019)

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