



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2019

CORAM

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

W.P. (MD) .No.3334 of 2014

WEB COPY

T.Angaiyarkkanni

.. Petitioner

Vs.

1.The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.

2.The Assistant Elementary Educational Officer,
Keelapavoor, Tirunelveli District.

3.The Secretary,
Arunachalanar Primary School,
Podiyanoor, Keelapavoor Range - 627 808.
Tirunelveli District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent herein in Na.Ka.No.745/A/13, dated 03.06.2013 and quash the same and consequently direct the respondents herein to award increment to the petitioner for her M.A., and M.Ed., degree with effect from 29.05.1999 with all attendant benefits and privileges.

For Petitioner : Mr.T.Pon Ramkumar

For Respondents : Mr.N.Shanmuga Selvan
Additional Government Pleader

ORDER

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the second respondent dated 03.06.2013 and to direct the respondents to award increment to the petitioner for her M.A., and M.Ed., degree with effect from 29.05.1999 with all attendant benefits and privileges.

2.The petitioner was a B.Sc., graduate and possessed B.Ed when she was appointed as Secondary Grade Teacher in the third respondent school on 06.10.1993. The petitioner's appointment was approved. However, at the time of entering service, it appears that the petitioner herself has given an undertaking not to claim incentive

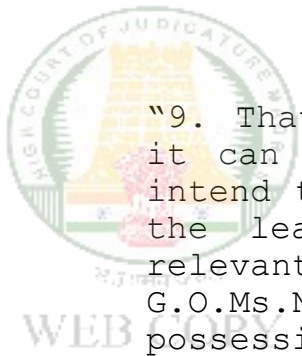


increment for her higher qualification i.e., B.Ed. The approval of the petitioner's appointment was subject to such condition.

3.After entering service, it appears that the petitioner has completed M.A. degree in Annamalai University through distance education mode and she has also obtained M.Ed., degree in the year 1999. The petitioner, thereafter, applied to the second respondent through third respondent for providing incentive increment for her M.A. and M.Ed., degree. It is also admitted that the third respondent forwarded the proposal for incentive increment only in 2013. However, the request of the petitioner was turned down by the second respondent by the impugned order dated 03.06.2013 on the only ground that the petitioner has undertaken not to claim any incentive increment for her B.Ed., qualification at the time of entering into service. The learned Counsel appearing for the petitioner however stated that the petitioner's claim for incentive increment is not for B.Ed., and that there is no impediment for claiming incentive increment for higher qualification of M.A. and M.Ed., after entering service. The learned Counsel appearing for the petitioner further relied upon several Judgment of this Court.

4.The learned Additional Government Pleader appearing for the respondents filed a detailed counter with regard to entitlement of the petitioner's claim of two incentive increment for higher qualification. The respondents relied upon G.O.Ms.No.539, Education Department, dated 21.04.1986 declaring that the teachers with B.Ed., appointed in Secondary Grade Teacher post are not eligible to receive incentive increment for their higher qualification. It is stated that in view of the specific terms in G.O.Ms.No.539, it is reiterated that the petitioner is not entitled to get any incentive increment for higher qualifications. It is true that G.O.Ms.No.539, Education Department, dated 21.04.1986 stipulates that B.T. Assistants who are appointed in Secondary Grade post with higher qualification are not entitled to claim incentive increment for higher qualification, namely, graduation and B.Ed. Based on G.O.Ms.No.539, there was several instances by which incentive increment for acquiring higher qualification of M.A. or M.Ed., before or after entering into service was negated by the respondents. However, in a catena of cases filed by the Teachers aggrieved by such rejection of their claim for incentive increment, for acquiring higher qualification of M.A. or M.Ed., this Court after quashing G.O.Ms.No.539, dated 21.04.1986 allowed the writ petitions.

5.In the case of ***A.Mary v. The Director of Elementary Education and others (W.P. (MD) No.6043 of 2010)*** the learned Single Judge of this Court followed a decision of a Division Bench of this Court in ***R.Premakumari v. State of Tamil Nadu*** reported in ***2008 (4) MLJ 1349*** wherein it has been held as follows:



"9. That apart, if the relevant G.Os are examined carefully, it can be safely concluded that the G.Os in reality do not intend to lay down in the manner it has been now concluded by the learned single Judge. We have already extracted the relevant portions of the G.Os. The underlined portion of G.O.Ms.No.42 dated 10.1.1969 indicates that if a person possessing higher qualification enters into service, his initial pay may be fixed by giving advance increments. Similarly in the subsequent G.O.Ms.No.747, dated 18.8.1986, paragraph 2 makes it clear that "the P.G. teachers and Headmasters of Higher Secondary Schools who possess or acquire Post Graduate qualification in education i.e. M.Ed., Degree shall be granted two advance increments in the scales of pay admissible to them". It is nowhere contemplated in the G.Os., that the incentive increments would be given only to those who acquired subsequently the qualification, but it would be given to all those who either possess, which means the degree is obtained at the time of entering into service or acquire, which means the degree is obtained after entering into service. Even the subsequent G.Os or the clarifications, nowhere indicate that in order to be eligible for getting incentive increment, the person has to acquire such higher qualification only after entering into service and not otherwise. Therefore, we are unable to accept the conclusion of the learned single Judge that a person who enters into service after having acquired a higher qualification, is not entitled to get incentive increments."

6.The above judgment of the Division Bench was also followed in several other cases by a learned Single Judge of this Court.

7.The judgment of Division Bench of this Court was followed by learned Single Judge of this Court and after referring to G.O.Ms.No.539, Education Department, dated 21.04.1986, this Court set aside the order rejecting the claim for incentive increment for possessing higher qualification of M.A. and M.Ed. Though several other precedents were relied upon by the learned Counsel appearing for the petitioner, this Court is of the view that it is not necessary to refer to all the judgments having regard to the nature of impugned order challenged in this Writ Petition. The undertaking was only to the effect that petitioner would not claim incentive increment for B.Ed., qualification. Her higher qualification after entry into service cannot be ignored.

8.The learned Additional Government Pleader appearing for the respondents has not brought to the notice of this Court any other judgment taking contrary view. In this background, this Court is of the view that the petitioner is entitled to the benefit. Accordingly, the Writ Petition is allowed and the impugned order passed by the second respondent on 03.06.2013 is quashed and

<https://hccases.courtservice.in/> are directed to award incentive increment to the



petitioner for her M.A. and M.Ed., degree with effect from the date of completion of such degrees. The monetary benefits accrued to the petitioner shall be disbursed to the petitioner within a period of three months from the date of receipt of a copy of this order. No costs.

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Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

SRM

To

- 1.The District Elementary Educational Officer,
Tirunelveli,
Tirunelveli District.
- 2.The Assistant Elementary Educational Officer,
Keelapavoor,
Tirunelveli District.
- 3.The Secretary,
Arunachalanar Primary School,
Podiyanoor, Keelapavoor Range - 627 808.
Tirunelveli District.

+1 CC to Mr.T.PON RAMKUMAR, Advocate (SR-102552[F]dated 29/11/2019)

+1 CC to SPL GP (SR-102667[F] dated 29/11/2019)

ORDER MADE IN
W.P. (MD)No.3334 of 2014
27.11.2019

VB(17.12.2019) 4P 6C