



W.P.(MD) Nos.4576,4578 & 1581 of 2020

COMMON ORDER

Challenging the impugned order passed by the third respondent in O.Mu.No.1633/A4/2019 dated 17.12.2019, these Writ Petitions have been filed.

2. The case of the petitioners is that they are working as B.T. Assistant in the fourth respondent School, which is a private school governed by the Tamil Nadu Recognized Schools (Regulation) Act, 1973 and the rules made thereunder. It receives grant in aid from the government. All the petitioners are qualified with M.Phil. The petitioners in W.P.(MD) Nos.4576 and 4578 of 2020 got permission to study M.Phil from the School management and the same was duly endorsed by the third respondent vide his proceedings dated 06.10.2015, whereas the petitioner in W.P(MD) No.4581 of 2020 did not get permission. However, it was subsequently ratified by the second respondent vide his proceedings dated 21.02.2019. The petitioners claim for incentive increment for possession of M.Phil was rejected by the third respondent vide his proceedings in O.Mu.1633/A4/2019 dated 17.12.2019, on the ground that there is no provision for ratification. Challenging the said order, the present Writ Petitions have been filed by the petitioners.

3. The learned counsel for the petitioners submitted that since the ratification order has already been passed by the second respondent and the same is in force without any modification or cancellation and as such, while the order of ratification is in force, the third respondent can not say that it can not be ratified. Further, the learned counsel submitted that the third respondent being the subordinate officer to the second respondent, he is bound by the order of his own superior. It is further submitted that mere non obtaining of prior permission will not disentitle the petitioner from getting their incentive for having acquired higher qualification of M.Phil, as it only improves their knowledge and it will be for welfare of the students. The learned counsel for the petitioners also relied upon the order made in W.P.(MD) No.4019 of 2018 and W.P (MD) No.12472 of 2014. The learned counsel prays this Court to quash the impugned rejection order.

4. On the other hand, the learned Additional Government Pleader submitted that as there is no provision for ratification, the order of rejection passed by the third respondent in his proceedings in O.Mu.No.1633/A4/2019 dated 17.12.2019 need not be interfered with.

5. Heard both sides and perused the documents.

6. It is an admitted fact that the petitioners in W.P.

(MD) Nos.4576 and 4578 of 2020 have already got permission to

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



study M.Phil. As far as the petitioner in W.P(MD) No.4581 of 2020 is concerned, though he has not obtained prior permission and it was subsequently ratified by the second respondent vide his proceedings dated 21.02.2019. On a careful perusal of the ratification order clearly shows that the act of the teachers, who have acquired higher studies without prior permission is condemned and as they were given assurance that such incidents will not occur in future and also considering the fact that their higher studies will be beneficial not only to the students but also to the schools, where they are working, the order of ratification has been passed.

7. It is pertinent to note that while the ratification order passed by the second respondent is in force, the third respondent can not deny the benefit of incentive increment to the petitioners. The learned counsel for the petitioner relied upon the order made in W.P(MD) No.12472 of 2014, wherein, it was held as follows:-

5. The learned Single Judge of this Court in the case of J.Tamilrajan vs. The State of Tamil Nadu and others, by order dated 03.01.2019, has followed the unreported decision of this Court in a previous case, which is similar to the present case and held that the claims for incentive increment for acquiring higher qualification cannot be denied on the ground that undertaking higher education by the teacher was without prior permission.

6. The learned counsel for the respondents though <http://www.judis.nic.in> W.P. (MD) No.12472 of 2014 relied upon the counter affidavit, reiterated the same contentions that was considered by the learned single Judge of this Court in the similar case relied upon by the petitioner.

7. This Court has consistently held that the petitioner and other similarly placed persons are entitled to incentive increments, despite the fact that they had undergone higher studies without prior permission.

8. The above case is squarely applicable to the present case on hand. Even in my opinion, mere non obtaining of prior permission will not disentitle the petitioners from getting their incentive increment. Since the higher qualification acquired by



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the teachers with or without prior permission will be definitely helpful to the students and the school as well. For all the forgoing reasons, I am inclined to interfere with the impugned rejection order passed by the third respondent.

9. Accordingly, the impugned order passed by the third respondent in his proceedings in O.Mu.No.1633/A4/2019 dated 17.12.2019 is hereby quashed and there shall be a direction to the respondents to sanction incentive increment to the petitioners for having acquired M.Phil. Such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl.Side)

/True Copy/

Sub Assistant Registrar

To

1. The Director of School Education,
O/o the Director of School Education,
DPI Compound, College Road, Chennai.
2. The Chief Educational Officer,
Office of the Chief Educational Office,
Karur, Karur District.
3. The District Educational Officer,
O/o the District Educational Office,
Karur, Karur District.
4. The Secretary,
Rangasamy Gounder Higher Secondary School,
Nadayanur, Karur District.

+3cc to M/s.Ajmal Associates, Sr.No.11151

+1cc to The Special Government Pleader SR.No.11049

AKM/06.05.2020

Common order made in
W.P. (MD) Nos.4576,4578 & 4581 of 2020 and
WMP (MD) Nos.3930,3931,3934,3936,3938 & 3939 of 2020
10.03.2020