



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :10.12.2020

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THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

W.P. (MD) Nos.18120, 18126 & 18139 of 2020
and
W.M.P. (MD) Nos.15143, 15145 & 15152 of 2020

C.Ramesh Kumar ...Petitioner in W.P. (MD) No.18120 of 2020
S.Pushpavathy ...Petitioner in W.P. (MD) No.18126 of 2020
A.S.Rajeshwari ...Petitioner in W.P. (MD) No.18139 of 2020

Vs

- 1.The District Educational Officer,
Sivakasi Educational District,
Sivakasi, Virudhunagar District.
- 2.The Block Educational Officer-1,
Vembakkottai, Virudhunagar District.
- 3.The Secretary,
Nadar Mahamai Primary School,
Elayirampennai,
Virudhunagar District.

...Respondents in all W.Ps.,

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the respondents 1 and 2 in O.Mu.No.689/Aa4/2019, Na.Ka.No.106/A4/2020 and O.Mu.No.4395/Aa4/2019, dated 28.03.2019, Nil.07.2019 and 21.04.2020 respectively and quash the same as illegal and unconstitutional, consequently direct the respondents to sanction incentive increment to the petitioners for B.Ed qualification forthwith.

For Petitioner
in all W.Ps, : Mr.J.Pooventhera Rajan

For R1 & R2
in all W.Ps., : Mr.A.Thiagarajan
Government Advocate



COMMON ORDER

Challenging the impugned orders passed by the respondents 1 and 2 in O.Mu.No.689/Aa4/2019, Na.Ka.No.106/A4/2020 and O.Mu.No.4395/Aa4/2019, dated 28.03.2019, Nil.07.2019 and 21.04.2020 respectively and for a direction to the respondents to sanction incentive increment to the petitioners for acquiring B.Ed qualification, these writ petitions are filed.

2.By consent of both parties, the writ petitions are taken up for final disposal at the admission stage itself.

3.It is the grievance of the petitioners that after getting prior permission from the 3rd respondent, though the petitioners acquired B.Ed., degree in the respondent University, the respondents 1 and 2 had passed the impugned orders stating that the petitioners have not obtained prior permission from the department concerned to study the aforesaid degree and that they are not eligible for getting incentive increment, since they have acquired the aforesaid degrees. Hence, challenging the impugned orders, the present writ petitions have been filed.

4.The learned counsel appearing for the petitioners would submit that after getting prior permission from the 3rd respondent, the petitioners have studied and successfully completed the aforesaid degree and therefore, they are entitled to get incentive increments for acquiring the said degrees. He would further submit that even non obtaining of prior permission from the authority concerned to undergo higher education, will not disentitle the individual from getting incentive increments, in view of the order made by this Court in W.P.(MD) No.4576 of 2020, dated 10.03.2020.

5.Mr.A.Thiagarajan, learned Government Advocate, who takes notice on behalf of the respondents 1 and 2 in all the writ petitions, would submit that the petitioners' request will be considered on merits and in accordance with law.

6.Heard the learned counsel on either side and perused the records carefully.

7.Admittedly, though the 3rd respondent has sent a proposal to the respondents 1 and 2 to grant incentive increments to the petitioners for acquiring B.Ed., degree, without considering the same, the respondents 1 and 2 have passed the impugned orders, which warrants interference of this Court.

8.Further, in a similar issue, this Court in W.P.(MD) No.12472 of 2014 had already passed an order on 04.10.2019 and the relevant portion of the same is as follows:-



"5.The learned Single Judge of this Court in the case of J.Tamilrajan vs The State of Tamil Nadu and otehrs, 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 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. As a result, this writ petition is allowed and the impugned order, dated 31.12.2012, passed by the second respondent is set aside. The respondents are directed to sanction incentive increments to the petitioner for M.A., and M.Ed within a period of eight weeks from the date of receipt of a copy of this order. No costs."

9.In view of the submissions made by the learned counsel on either side and in view of the settled principle of law, this Court is inclined to allow these writ petitions and accordingly, the same is allowed as prayed for by the petitioners. The impugned orders passed by the respondents 1 and 2 in O.Mu.No.689/Aa4/2019, Na.Ka.No.106/A4/2020 and O.Mu.No.4395/Aa4/2019, dated 28.03.2019, Nil.07.2019 and 21.04.2020 respectively are hereby quashed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

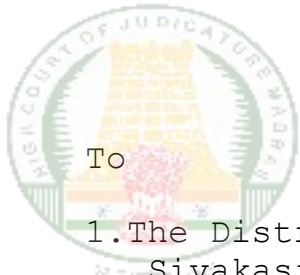
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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The District Educational Officer,
Sivakasi Educational District,
Sivakasi,
Virudhunagar District.

2.The Block Educational Officer-1,
Vembakkottai,
Virudhunagar District.

+1 CC to M/s.GP (SR-25092[F] dated 11/12/2020)

W.P. (MD) Nos.18120, 18126 & 18139 of 2020
10.12.2020

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TR(22.12.2020) 4P 4C