



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2020

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

W.P.(MD)No.11169 of 2015

and

W.M.P.(MD)No.7705 of 2016

WEB COPY

D.Susila

... Petitioner

Vs.

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

2.The Assistant Elementary Educational Officer,  
Thogaimalai Union,  
Karur District.

...Respondents

**Prayer:** Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to proceedings Na.Ka.No.1098/A1/2015, dated 23.06.2015 of the second respondent herein and quash the same and consequently, direct the respondents herein to continue to pay the second incentive increment for the B.Ed degree with effect from 29.02.2012 to the petitioner.

For Petitioner : Mr.T.Pon Ramkumar

For Respondents : Mrs.S.Srimathy

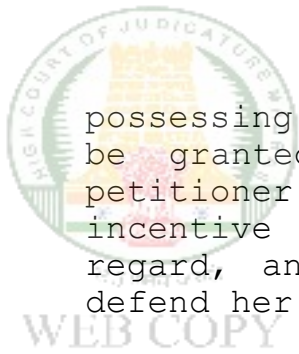
Special Government Pleader

**ORDER**

The incentive increment granted to the writ petitioner is sought to be recovered through the impugned order dated 23.06.2015.

2.The sole ground raised by the writ petitioner is that no show cause notice or opportunity was provided to the petitioner to defend her case. Thus, the impugned order is in violation of the principles of natural justice.

3.The learned Special Government Pleader is unable to establish that show cause notice was issued to the petitioner before passing of the impugned order. Regarding the grant of incentive increment, the Government policy as well as the Court orders in this regard are unambiguous. She is eligible to get the second incentive increment in her entire service. This apart, the incentive increment are to be granted only for additional qualification and not for requisite qualification. In other words, if a person does possess requisite qualification for his post, then, the incentive increment is impermissible for such qualification. Only in the event of



possessing additional qualification, the incentive increment is to be granted. This being the factors laid down, whether the petitioner is possessing additional qualification for grant of incentive increment or not is also to be verified and in this regard, an opportunity is to be given to the writ petitioner to defend her case with reference to the Government orders in force.

4.Recently, grant of incentive increment itself banned by the Government in G.O.(Ms)No.116, dated 15.10.2020.

5.This being the factum, this Court is of the considered opinion that the case is remanded back to the second respondent to issue show cause notice setting the facts and details of the writ petitioner within a period of four weeks from the date of receipt of a copy of this order. On receipt of the show cause notice, the petitioner is directed to submit her reply / explanation within a period of two weeks from the date of the copy of the show cause notice and thereafter, on receipt of the explanation, the second respondent is directed to consider the case on merits and in accordance with law and pass an order within a period of twelve weeks therefrom. The writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

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

2.The Assistant Elementary Educational Officer,  
Thogaimalai Union,  
Karur District.

+1 CC to M/s.T.PON RAMKUMAR, Advocate ( SR-22901[F] dated 26/11/2020

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SV2 (CO)

TR(03.12.2020) 2P 4C