

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7820 of 2021

K. Raja

... Petitioner

-vs-

1. The Chief Educational Officer,
Chengalpattu District,
Chengalpattu (formerly at Kancheepuram)
2. The District Educational Officer,
Chengalpattu.
3. The Secretary
The Madras Seva Sadan Higher Secondary School,
No.208, Gandhi Road,
West Tambaram, Chengalpattu District,
Chennai 600 045.

... Respondents

Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to grant incentive increment to the petitioner for acquiring / possessing higher qualification of M.A.Degree in Tamil with effect from 16.11.2000 notionally refix his pay on that basis and disburse monetary benefits with effect from 28.04.2017 with interest in the light of G.O.Ms.No.83, School Education Department, dated 28.04.2017 within a limited time frame.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.P.Raja
Government Advocate

ORDER

This writ petition has been filed, seeking a direction to the respondents to grant incentive increment to the petitioner for acquiring / possessing higher qualification of M.A.Degree in Tamil with effect from 16.11.2000 notionally refix his pay on that basis and disburse monetary benefits with effect from 28.04.2017 with interest in the light of G.O.Ms.No.83, School

Education Department, dated 28.04.2017.

2. Mr.Raja, learned Government Advocate takes notice for Respondents. By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

3. The case of the petitioner is that in accordance with G.O.Ms.No.83, School Education Department dated 28.04.2017, the persons who were appointed as Secondary Grade Teacher with the qualifications for appointment as BT Assistant as against the SC/ST backlog vacancies in Government as well as in Government Aided Schools from the year 1997 till 2000 are entitled for an incentive increment i.e., two annual increments for possessing higher qualification.

4. The petitioner who belongs to SC community with M.A., qualification was appointed as Secondary Grade Teacher on 16.11.2000 in the third respondent school and as such he is entitled to the benefit of the said Government Order. However, the proposal submitted by the third respondent school was returned by the second respondent on 18.10.2017, by stating that the list of 23 Teachers mentioned in the Government order, as an annexure to the said G.O., shall have to be annexed to the said proposal. In view of the non availability of the said list, the petitioner's grievance has not been redressed till date. The petitioner cannot be faulted for either non-availability of the list of 23 Teachers mentioned in the Government Order, nor even in the case of omission of his name in the said list. The fact remains that the petitioner who belongs to SC community having been appointed as Secondary Grade Teacher with the requisite qualifications for appointment to the post of BT Assistant is fully entitled for the incentive increment as provided in G.O.Ms.No.83, School Education Department, dated 28.04.2017. Since there was no reply from the respondents the petitioner has approached this Court with the present writ petition.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the respondents and if the representation is not already disposed of earlier, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the respondents herein to consider the representations preferred by the petitioner dated 04.12.2020 and 01.03.2021 if the petitioner is found to be eligible and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 60 days from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the respondents shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representations dated 04.12.2020 and 01.03.2021 and this order, to the respondents forthwith;

v) The respondents are directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

dpq

To:

1. The Chief Educational Officer,
Chengalpattu District,
Chengalpattu (formerly at Kancheepuram)
2. The District Educational Officer,
Chengalpattu.

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3. The Secretary

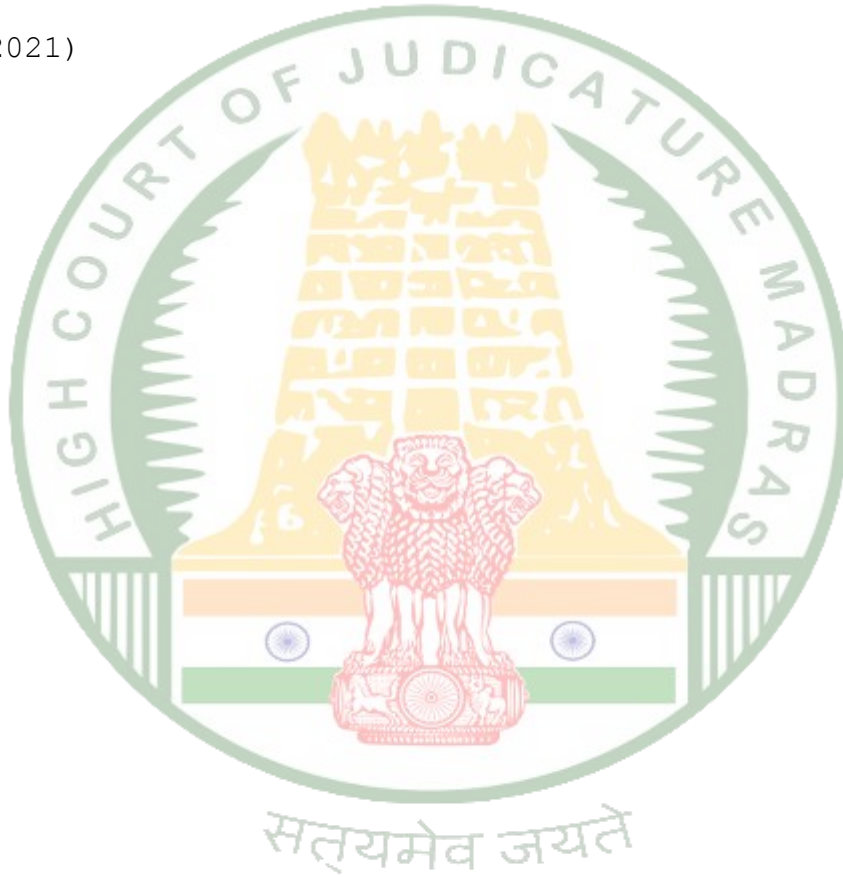
The Madras Seva Sadan Higher Secondary School,
No.208, Gandhi Road,
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Chennai 600 045.

+1cc to Mr.M.Ravi, Advocate, S.R.No.2042

+1cc to the Government Pleader, S.R.No.19949

W.P.No.7820 of 2021

PMK (CO)
CB(18/05/2021)



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