

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7976 of 2021

(Heard through VC)

M.P.Ravindranath

.. Petitioner

-vs-

1. The Chief Educational Officer,
Chengalpattu District,
Chengalpattu.
2. The District Educational Officer,
St. Thomas Mount Education District,
Chrompet, Chennai - 600 044.
3. The Correspondent,
Aringnar Anna Cantonment High School,
Pallavaram,
Chennai - 600 043.

.. Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the respondents to pass orders sanctioning incentive increment for acquiring M.Phil Degree by the petitioner as per G.O.Ms.No.177, Education Department dated 13.10.2016, with all consequential and other attendant benefits including arrears of salary, by considering the representation submitted by the petitioner dated 27.02.2021 within a time frame.

For Petitioner : Mr.G.Sankaran

For Respondents-1 & 2 : Mr.P.Raja
Government Advocate

O R D E R

The writ petition has been filed seeking a direction to the respondents to pass orders sanctioning incentive increment for acquiring M.Phil Degree by the petitioner as per G.O.Ms.No.177,

Education Department dated 13.10.2016, with all consequential and other attendant benefits including arrears of salary, by considering the representation submitted by the petitioner dated 27.02.2021.

2. Mr.P.Raja, learned Government Advocate takes notice on behalf of the respondent Nos.1 and 2.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner, he was working as Physical Education Teacher in the 3rd respondent School. He has also acquired M.Phil. Degree qualification in the year, 2006. He studied M.Phil Degree through Distance Education in Annamalai University, based on the permission granted by the School Management. As per the Government Order in G.O.Ms.No.1024, Education, Science and Technology Department dated 09.12.1993, a teacher is made eligible for two incentive increments based on higher qualification in their entire service career. Hence, based on the petitioner's request for second incentive increment, a proposal was forwarded by the 3rd respondent to the 2nd respondent and the same was returned on the premises that the petitioner has studied M.Phil. Degree without prior permission from the Department. The 3rd respondent issued notice to the petitioner to submit explanation for having studied M.Phil. Degree without prior permission from the Department, for which, the petitioner had submitted his explanation stating that he had studied M.Phil Degree based on the permission granted by the School Management. Thereafter, the 3rd respondent issued an order of Censure vide proceedings dated 01.12.2018. Hence, the petitioner has made a representation dated 27.02.2021 to the first respondent seeking second incentive increment for acquiring M.Phil. Degree qualification based on G.O.Ms.No.177 dated 13.10.2016 and G.O.Ms.No.356 School Education Department dated 02.11.2007. Since the same has not been considered, the present writ petition has been filed.

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 first respondent, the writ petition is disposed of with the following directions:

i) A direction is issued to the first respondent herein to consider the representation of the petitioner dated 27.02.2021, if not already disposed of and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner, as expeditiously as possible, preferably within a period of 60 days from the date of receipt of a copy of this order. Since no adverse order is passed

against the third respondent, notice to the third respondent is dispensed with. However, while disposing of the representation, the third respondent shall also be heard.

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 first respondent 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 representation dated 27.02.2021 and this order, to the first respondent forthwith;

v) The first respondent is 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.

s/d-

Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

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To

1. The Chief Educational Officer,
Chengalpattu District,
Chengalpattu.

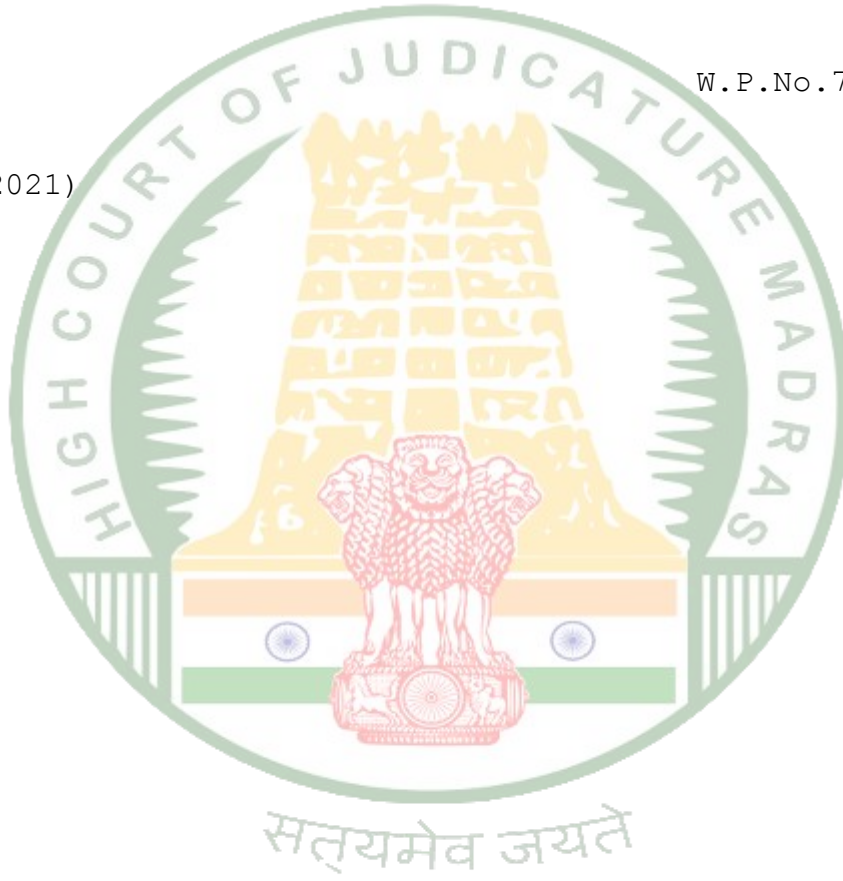
2. The District Educational Officer,
St. Thomas Mount Education District,
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3. The Correspondent,
Aringnar Anna Cantonment High School,
Pallavaram,
Chennai - 600 043.

+1 CC to Mr. G. Sankaran, Advocate, Sr 20480
+1 CC to Government Pleader, Sr 20815

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KV(CO)
SP(14/07/2021)



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