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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.03.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7958 of 2021

and

W.M.P.No.8512 of 2021
(Heard through VC)

1.S.Nagaraji
2.P.M.Alphonse

..Petitioners

-vs-

1.The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.

2.The Chief Educational Officer,
Chengalpet District,
Chengalpet.

3.The District Educational Officer,
Chengalpet Educational District,
Chengalpet.

4.The District Educational Officer,
Maduranthakam Educational District,
Maduranthakam,
Chengalpet.

..Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the respondents sanction incentive increment to the petitioners for acquiring M.Phil. Degree as per G.O(1D).No.18 School Education Department dated 18.01.2013 in ratification of M.Phil. Degree obtained by the petitioners in the year 2006, 2007 without entry in the Service Record, with all consequential and other attendant benefits including arrears of salary, based on the representations submitted by the petitioners.



For Petitioners

: Mr.G.Sankaran

For Respondents

: Mr.P.Raja
Government Advocate

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O R D E R

The writ petition has been filed seeking a direction to the respondents to sanction incentive increment to the petitioners for acquiring M.Phil. Degree as per G.O(1D).No.18 School Education Department dated 18.01.2013 in ratification of M.Phil. Degree obtained by the petitioners in the year 2006, 2007 without entry in the Service Record, with all consequential and other attendant benefits including arrears of salary, based on the representations submitted by the petitioners.

2. Mr.P.Raja, learned Government Advocate takes notice on behalf of the respondents.

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

4. The facts of the case is that the petitioners were appointed as B.T. Assistant in School Education Department. They acquired M.Phil. Degree after obtaining permission from the Headmaster of the School. The Government in G.O(1D). No.18, School Education Department, dated 18.01.2013 issued orders to grant incentive increment for M.Ed., or M.Phil. or Ph.D. Degree on condition that a teacher is entitled for two incentive increment in their entire service career. Hence, the petitioners have submitted individual representation dated 03.10.2013 and 08.11.2013, respectively, seeking incentive increment for having acquired M.Phil. Degree as per the above said G.O. But the same were not considered on the premises that the petitioners have studied M.Phil. Degree without availing permission from the department in view of the fact that there was no entry in the Service Record for the same. The first respondent had issued proceedings dated 21.10.2020 calling for the list of teachers, who acquired higher qualification prior to 09.03.2020 in order to sanction incentive increment for the same. However, the petitioners were not considered for grant of incentive increment even as per the proceedings dated 21.10.2020. Hence, the petitioners are before this Court.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioners' representations are already pending with the respondents, the writ petition is disposed of with the following directions:



i) A direction is issued to the respondents herein to consider the representations of the petitioners dated 03.10.2013 and 08.11.2013, if not already disposed of and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioners 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 petitioners are unable to appear for personal hearing, the petitioners are entitled to send a written submissions 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 petitioners can avail the opportunity of either personal hearing or filing written submission and not both;

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

iv) The petitioners shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representations dated 03.10.2013 and 08.11.2013 and this order, to the respondents forthwith;

v) The respondents are directed to communicate the decision taken on the representations, to the petitioners 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 petitioners to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioners, 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 petitioners, later on, will not take a plea that the petitioners are not aware of the order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar



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To

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- 1.The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
- 2.The Chief Educational Officer,
Chengalpet District,
Chengalpet.
- 3.The District Educational Officer,
Chengalpet Educational District,
Chengalpet.
- 4.The District Educational Officer,
Maduranthakam Educational District,
Maduranthakam,
Chengalpet.

+1cc to Government Pleader, Sr No.20813
+2cc to Mr.G. Sankaran, Advocate, Sr No.20476

W.P.No.7958 of 2021
and
W.M.P.No.8512 of 2021

KV[co]
NSK 22/07/2021