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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.NO.22907 OF 2021

AND

W.M.P.NOS.24113 & 24115 OF 2021

(Through Video Conferencing)

M.Pushpa Therese

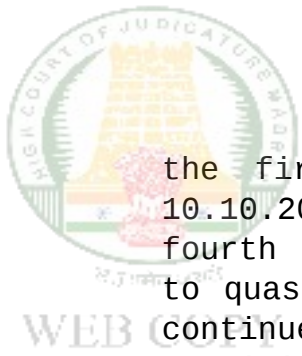
...Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.
3. The District Educational Officer,
Kallakurichi Educational District,
Kallakurichi District.
4. The Additional Assistant Elementary
Educational Officer,
(Presently Block Educational Officer-II),
Chinnasalam Block,
Kallakurichi District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by



the first respondent in Letter No.3702/Tho.Ka1(2)/2017 dated 10.10.2017 and the consequential impugned order issued by the fourth respondent in Na.Ka.No.316/Aa1/2018 dated 25.04.2018 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree with revision scale of pay with reference to recommendations of VIIth Pay Commission.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.L.S.M.Hasan Fizal
Government Advocate

ORDER

Mr.L.S.M.Hasan Fizal, learned Government Advocate takes notice on behalf of the respondents.

2. The petitioner has challenged the impugned communication/proceeding dated 10.10.2017 bearing Reference No.3702/Tho.Ka1(2)/2017 of the first respondent, pursuant to which, the fourth respondent has passed the impugned order dated 25.04.2018 bearing Reference Na.Ka.No.316/Aa1/2018 seeking to retrospectively deny the benefit of G.O.Ms.No.107, Education Department dated 20.01.1976.

3. The learned counsel for the petitioner submits that the petitioner was initially appointed as a Secondary Grade Teacher in the Elementary Education School and thereafter promoted as Elementary School Head Master. Thereafter, she was promoted as a Middle School Head Master.

4. During the interregnum, the petitioner has obtained a Degree in Bachelor of Education. The learned counsel for the petitioner further submits that the petitioner was also granted incentive increments for having acquiring B.Ed as per G.O.Ms.No.42, Education Department dated 10.01.1969. It is submitted that as a Secondary Grade Teacher had acquired B.Lit/B.A Degree was also eligible for promotion to the post of Tamil Pandit/B.T.Assistant (Tamil) as well as to the post of Middle School Head Master. It is submitted that pursuant to G.O.Ms.No.107, Education Department dated 20.01.1976, the petitioner was given incentive increments.



5. The learned counsel for the petitioner further submits that the issue is no longer res integra and is covered by the decision of the Madurai Bench of this Court rendered in W.P. (MD).No.21368 of 2014 and in W.P.(MD).No.4332 of 2015 vide its order dated 05.04.2017.

6. Appearing on behalf of the respondents, learned Government Advocate fairly submits that the issue is now considered by the aforesaid order of the Madurai Bench of this Court and that no further appeal has been filed against the said order. The operative portion from the said order reads as under:-

“8.The conduct of the respondents also has to be taken note of. It is seen that the respondents have recognized the entitlement of the petitioners to receive incentive increment at the earlier point of time and now they are trying to give a different interpretation to the proceedings and clarifications, which are purely internal with in the Department of Education. The respondents are trying to deviate from the original stand taken and trying to deprive the petitioners of the benefit extended to them for a long number of years. In such circumstances, this Court is not inclined to accept the case of the respondents regarding the entitlement of the petitioners to incentive increment.

9.The case of the respondents in the counter affidavit is only to the effect that the petitioners, after becoming Headmistress of the Middle School, are not entitled to get incentive increments for acquiring B.Ed. Degree. It is contended that the petitioners acquired B.Ed., after becoming Middle School Headmistress and that since B.Ed., Degree is a required basic qualification for appointment of Middle School Headmistress, as clarified by the Director of Elementary Education, the petitioners are not entitled to incentive increment for acquiring B.Ed. Degree. In support of this, the proceedings



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of the Joint Director of Elementary Education, dated 07.11.2014, was relied upon.

10. In the present cases, the petitioners were working as Primary School Headmistress from 17.06.2003 and 23.07.2007 respectively. The petitioners also became Middle School Headmistress in 2007 and 2010, respectively. The fact that the petitioners were given incentive increment for acquiring B.Ed., qualification after this promotion as Middle School Headmistress is admitted and the clarification of second respondent reflect the correct position. In such circumstances, this Court is of the considered opinion that the petitioners are entitled to get incentive increment for acquiring additional qualification as per the earlier proceedings of the Director of Elementary Education, dated 07.06.1991 and the same cannot be stopped or denied in view of the qualification prescribed later in the year 2013.

11. In view of the forgoing reasons, this Court finds that there is no merits in the contention of the respondents. Hence, these Writ Petitions deserve to be allowed.

12. In the result, the impugned orders passed vide proceedings in Na.Ka.No839/A/20104 by District Elementary Educational officer, dated 22.12.2014 and vide proceedings in Na.Ka.No.783/A2/2014, dated 20.01.2015, by the Additional Assistant Educational Officer, Tirunelveli District, challenged in the two Writ Petitions are quashed. The respondents are directed to pay incentive increment to the petitioners in terms of the earlier order of the Government as clarified by proceedings of the Director of Elementary Education, dated 07.06.1991."

7. Since the issue is squarely covered by the above decision of the Madurai Bench of this Court and since no further



appeal has also been filed by the respondents Department, this Writ Petition is allowed at the time of admission with consequential relief to the petitioner. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

// True Copy //

Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.
3. The District Educational Officer,
Kallakurichi Educational District,
Kallakurichi District.
4. The Additional Assistant Elementary
Educational Officer,
(Presently Block Educational Officer-II),
Chinnasalam Block,
Kallakurichi District.

+1cc to Mr.G.Sankaran, Advocate, S.R.No.55662
+1cc to the Government Pleader, S.R.No.56183

W.P.No.22907 of 2021
and

W.M.P.Nos.24113 & 24115 of 2021

KV(CO)
RLP(17/11/2021)