



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD) .No.18254 of 2013

and M.P. (MD) .Nos.2 of 2013 and 1 of 2014

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A.Joseph

... Petitioner

Vs.

1.The Secretary to the Government,  
School Education Department,  
Government of Tamil Nadu,  
Fort St. George, Chennai.

2.The Director of School Education,  
Office of the Director of School Education,  
Chennai - 600 006.

3.The Chief Educational Officer,  
Theni, Theni District.

4.The Head Master,  
Government Higher Secondary School,  
T.Subbulapuram, Andipatty,  
Theni District.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned letter of the first respondent in Lr. No.129 School Education (PaKa5(2))2013-1, dated 17.07.2013, and the consequent impugned order of the 3<sup>rd</sup> respondent in Na.Ka.No.4797/A3/2013, dated 16.07.2013 and the impugned order of the 4<sup>th</sup> respondent bearing Na.Ka.No.54/13, dated 19.07.2013 and quash the same as illegal and consequently, direct the respondents herein to fix the pay and increment of the petitioner for acquiring M.Phil., qualification from the date of his joining as B.T. Assistant, as on 03.10.2007.

|                 |   |                              |
|-----------------|---|------------------------------|
| For Petitioner  | : | Mr.M.Gnanagurunathan         |
| For Respondents | : | Mr.M.Lingadurai for R1 to R3 |
|                 |   | Government Advocate          |
|                 |   | R4 - No Appearance           |

**ORDER**

This writ petition is filed for issuing a writ of Certiorarified Mandamus to quash the impugned order passed by the first respondent in Lr. No.129, School Education (PaKa5(2))2013-1, dated 17.07.2013 and the consequent impugned order of the 3<sup>rd</sup>



respondent in Na.Ka.No.4797/A3/2013, dated 16.07.2013 and the order of the 4<sup>th</sup> respondent bearing Na.Ka.No.54/13, dated 19.07.2013 and consequently, direct the respondent to fix the pay and increment to the petitioner for acquiring M.Phil., qualification from the date of his joining as B.T. Assistant.

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2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1to3.

3.The petitioner was appointed as B.T. Assistant (English), on 03.10.2007 and his service was regularized from the date of his appointment. The petitioner had M.A. and M.Phil. qualifications even on the date of his appointment. The Government, in order to encourage the teachers at the level of Secondary Grade Assistant, B.T. Assistant and P.G. Assistant, to acquire higher qualification either before or after joining into the service, granted incentive increments.

4.It is the case of the petitioner that a Secondary Grade Teacher is eligible for two advance increments when he acquires B.T. or B.Ed., qualification. A B.T. Assistant is also eligible for two more advance increments when he acquires M.A., M.Sc., or M.Ed. qualification. It is stated that the petitioner was paid incentive increment for acquiring higher qualification in terms of the Government Order. However, by the impugned proceedings, the respondents resorted to recover certain amount from the salary of the petitioner on the ground that the incentive increment originally paid to the petitioner has to be recovered. From the reading of the impugned orders, the petitioner is unable to find any reason. It is also to be noticed that the order of recovery was passed without any enquiry. No notice was also given to the petitioner.

5.Having regard to the admitted facts, this Court is inclined to dispose of the writ petition in the following lines.

(i) The impugned Lr. No.129 School Education (PaKa5 (2)2013-1, dated 17.07.2013, sent by the first respondent and the consequential order of the 3<sup>rd</sup> respondent in Na.Ka.No.4797/A3/2013, dated 16.07.2013 and the impugned order of the 4<sup>th</sup> respondent bearing Na.Ka.No.54/13, dated 19.07.2013, are quashed.

(ii) The respondents are directed to consider the eligibility of the petitioner in the light of the various Government Orders for acquiring M.Phil., qualification from the date of his joining duty as B.T. Assistant. If the petitioner is found to have received any excess amount and such excess payment is contrary to any Government Order or Guideline, it is open to the respondents to initiate proceedings for recovery after issuing show cause notice and conducting enquiry.



6. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

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Sub Assistant Registrar(CS)

**To**

1.The Secretary to the Government,  
School Education Department,  
Government of Tamil Nadu,  
Fort St. George, Chennai.

2.The Director of School Education,  
Office of the Director of School Education,  
Chennai - 600 006.

3.The Chief Educational Officer,  
Theni, Theni District.

+1 CC to M/s.Special Government Pleader ( SR-26065[F] dated  
12/08/2021 )

+1 CC to M/s.M.GNANAGURUNATHAN, Advocate ( SR-26199[F] dated  
12/08/2021 )

**W.P. (MD) .No.18254 of 2013**

**11.08.2021**

**\_RS (23.08.2021) 3P 6C**