



WEB COPY

W.P.(MD) No.6387 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.6387 of 2021

and

W.M.P(MD) No.4985 of 2021

V.Kanagaraj

...Petitioner

Vs.

1.The District Educational Officer,
Virudhunagar Educational District,
Virudhunagar.

2.The Head Master,
Ayiram Vysya Hr.Sec. School,
Sattur,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the first respondent in m.jp.K.vz;.2057/m4/2020 dated 25.07.2020 and quash the same as illegal and unconstitutional, consequently direct the first respondent to sanction incentive increment to the petitioner for acquiring M.A Degree qualification forthwith.

For Petitioner : Mr.J.Pooventhera Rajan

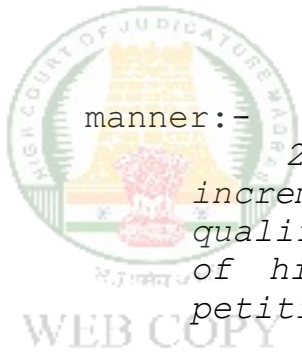
For R-1 : Mr.N.Shanmugaselvam,
Additional Government Pleader

O R D E R

The petitioner's request for approval of his higher education and consequently, sanctioning the incentive increment for M.A degree came to be returned by observing that belated application seeking approval of his higher education, is not permissible.

2.This Court, in various decisions have held that the Teacher, who possessed higher education and seeks for incentive increment cannot be denied such benefit on the ground that the prior permission was not sought for. It was also held that a mere failure to obtain prior permission for having acquire the higher education cannot be a ground for grant of incentive increment. In one such decision of this Court in the case of **V.Visuvasa Rajakumar Vs The District Educational Officer and other** passed in W.P(MD) No.2428 of 202, dated 10.02.2021, such proposition was laid in the following

<https://hcservices.ecourts.gov.in/hcservices/>



manner:-

2. The petitioner herein intends to avail incentive increment for having possessed higher educational qualification and the purpose for which the ratification of his higher degree was sought for was to make the petitioner eligible for availing the said increment.

3. This Court, in various writ petitions have held that claims for conferment of incentive increment for acquiring higher educational qualifications cannot be denied on the ground that such higher qualifications were acquired without prior permission. One such order of this Court passed in the case of **J.Tamilrajan vs. Department of School Education and others** passed in W.P.(MD) No.4019 of 2018, reads thus:-

"3.In W.P(MD).No.1049 of 2012, a learned single Judge of this Court has considered the similar question and has rejected the claim of the department that if the higher education is pursued without consent of the permission of the department, the teacher was not entitled to the incentive increments for obtaining such higher qualification. Following the said Judgment, another learned single Judge of this Court in W.P.No.18086 of 2017 has held that want of permission cannot stand in the way of the petitioner being favoured with the incentive increments for having obtained higher qualifications. While doing so, paragraph 7 of the order, this Court has observed as follows:

" 7.This Court in the unreported decision made in W.P(MD).No. 21895 of 2015 dated 08.12.2015, while considering the claims for conferment of incentive increment for acquiring qualification and the contention that they were acquired without prior permission, held that conferment of incentive increment cannot be denied on that score. Acquiring higher education by the teacher is only for the benefit of students. In that view of the matter, the first ground of opposition stands rejected"

4. In view of the above, the sole ground on which the authorities rejected the claim of the petitioner towards incentive increments fails and the writ petition is liable to succeed. The impugned order of rejection is therefore, quashed. The respondents are directed to sanction the incentive increments to the petitioner for obtaining the higher qualifications namely M.A.History and B.Ed Degree from the date of acquisition of the respective qualifications. The said exercise shall be



completed within 8 weeks from the date of receipt of a copy of this order."

4. By applying the ratio held in the aforesaid decision as well as various other decisions, on the same line, it can be said that the petitioner herein would be entitled for incentive increment for having possessed higher educational qualification, even though he had not obtained prior permission of the Authorities for having undergone the course for such higher education.

5. In the light of the above observations, the second respondent Management is granted liberty to make an appropriate proposal to the first respondent herein, recommending the candidature of the petitioner herein for grant of incentive increment for having possessed his higher educational degree. On receipt of such a proposal, the first respondent herein, shall positively consider the same, if not otherwise disqualify, in the line of the observations made by this Court and extend the benefit of incentive increment, atleast within a period of twelve (12) weeks from the date of receipt of the proposal.

4. In view of the legal proposition laid down in the aforesaid decision as well as various other orders of this Court, the impugned order dated 25.07.2020, returning the petitioner's application by observing that the request for permission for having completed M.A degree in the year 2017-2019 cannot be granted in the year 2020, is set aside. Consequently, the first respondent herein is directed to re-consider the petitioner's representation dated 09.01.2020, on its own merits and pass appropriate order, in the light of the observation made by this Court, within a period of twelve weeks from the date of receipt of a copy of this order.

5. Accordingly, this Writ Petition is ordered. No costs. Consequently, connected miscellaneous petition is closed.

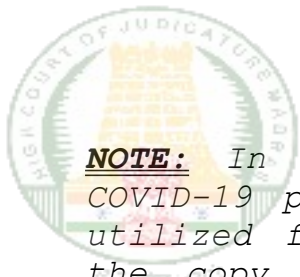
Sd/-

Assistant Registrar (CO)

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/ /2021

Sub Assistant Registrar (CS)



NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

CP

To:-

The District Educational Officer,
Virudhunagar Educational District,
Virudhunagar.

+1 CC to M/s.SPL GP (SR-13243[F] dated 24/03/2021)

W.P. (MD) No.6387 of 2021
22.03.2021

GS (28.04.2021) 4P 3C