



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.6438 of 2021

and

W.M.P (MD) No.5040 of 2021

WEB COPY

P.Sakunthala

...Petitioner

Vs.

1.The Director of School Education,
DPI Campus, Chennai-6.

2.The Joint Director of School Education (Higher Secondary),
DPI Campus,
Chennai-6.

3.The Chief Educational Officer,
O/o. the Chief Educational Officer,
Theni, Theni 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 order in O.Mu.No.50714/W3/E2/2020 dated 02.12.2020 on the file of the second respondent and quash the same as illegal and consequently for a direction, directing the respondents to grant incentive increment to the petitioner for acquiring M.Phil Degree along with other consequential benefits within the time period stipulated by this Court.

For Petitioner

: Mr.T.Lajapathi Roy

For Respondents

: Mr.N.Shanmugaselvam,
Additional Government Pleader

O R D E R

The petitioner herein, has possessed higher education during her service in the Government Higher Secondary School, Kottur, Theni District and she aspired to avail incentive increment for her higher education, in terms of the Regulations governing them. When the petitioner had sought for the approval for registration of her higher qualification for the purpose of granting incentive increment, the same came to be rejected by the second respondent herein, stating that, the petitioner had not obtained prior permission of the Authorities, for undergoing higher education and disciplinary proceedings should be initiated against her.

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 she



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, there shall be a direction to the third respondent herein to consider the petitioner's representation dated 10.03.2021 and pass appropriate orders positively, if not otherwise disqualify, in the line of the observations made by this Court and extend the benefit of incentive increment, at least within a period of twelve (12) weeks from the date of receipt of the proposal.

6. Accordingly, the Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /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

- 1.The Director of School Education,
DPI Campus, Chennai-6.
 - 2.The Joint Director of School Education (Higher Secondary),
DPI Campus,
Chennai-6.
 - 3.The Chief Educational Officer,
O/o. the Chief Educational Officer,
Theni, Theni District.
- +1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-12874[F] dated 23/03/2021)

+1 CC to M/s.SPL GP (SR-13244[F] dated 24/03/2021)

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GS (26.04.2021) 3P 6C