



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.8357 of 2021

R.Precilla Valantina

... Petitioner

Vs.

1.The Director of School Education,
O/o.The Director of School Education,
DPI Compound,
College Road,
Chennai.

2.The Chief Educational Officer,
O/o.Chief Educational Office,
Tirunelveli District,
Tirunelveli-9.

3.The District Educational Officer,
O/o.Chief Educational Office,
Tirunelveli District,
Tirunelveli-9.

4.The Correspondent,
Sarah Tucker Girls Higher Secondary School,
Palayamkottai,
Tirunelveli District-2.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order made in Na.Ka.No.3956/A5/2020, dated 11.01.2021 passed by the 3rd respondent and quash the same and consequently direct the respondents to approve the additional qualification of M.Phil Acquired by the petitioner and thereby grant all consequential benefits in the light of G.O.Ms.No.42, School Education Department, dated 10.01.1969.

For Petitioner : Mr.Hasan Mohammed Jinnah
For R1 to R3 : Mr.C.M.Mari Chelliah Prabhu
Additional Government Pleader

ORDER

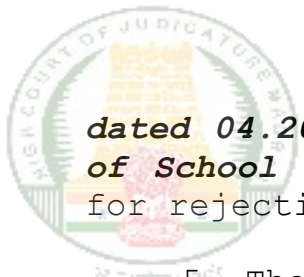
This writ petition is filed to call for the records pertaining to the impugned order made in Na.Ka.No.3956/A5/2020, dated 11.01.2021 passed by the 3rd respondent and quash the same and consequently direct the respondents to approve the additional qualification of M.Phil acquired by the petitioner and thereby grant all consequential benefits in the light of G.O.Ms.No.42, School Education Department, dated 10.01.1969.



2. Mr.C.M.Mari Chelliah Prabhu, learned Additional Government Pleader takes notice on behalf of the respondents 1 to 3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. The petitioner has completed B.Sc., in the year 1990 and B.Ed., in the year 1991. Based on the qualification she was appointed as BT Assistant on 10.07.2000 by the Diocese of Tirunelveli, Church of South India and posted at Mary Ann Best Girls Hr. Secondary School, Pandarachettivilai, Thoothukudi. Her appointment was duly approved by the District Educational Officer, Thoothukudi District. Subsequently, she was transferred to the fourth respondent School by Diocese of Tirunelveli, Church of South India, on 03.08.2002. Thereafter, she was designated as Assistant Headmistress, based upon her seniority on 01.06.2019 in the fourth respondent school. During the course of her service, she had completed M.Sc., degree in the year 2004 and got incentive increment for M.Sc., degree as per G.O.Ms.No.42, School Education Department, dated 10.01.1969. Thereafter, to pursue M.Phil degree, she made representation to the third respondent seeking permission to pursue the same in Prist University, Thanjavur. While her application seeking prior permission for pursuing higher education was under process, she got admission to pursue M.Phil., at Prist University, Thanjavur. Hence, the petitioner had undergone M.Phil course in Mathematics subject during the academic year 2008-2009 and passed in First Class. Since the petitioner has pursued Higher Education during the course of her employment, she is entitled for two incentive increments as per G.O.Ms.No.42, School Education Department, dated 10.01.1969. Hence, after completion of her M.Phil degree, she made representations dated 29.04.2013 and 28.01.2015 to the respondents 1 & 3, seeking incentive increment and ratification for non-obtaining prior permission to pursue the said degree and to provide approval for her M.Phil degree. Since, the third respondent has not passed any orders on the representations, the petitioner filed writ petition in W.P(MD)No.9519 of 2020. This Court, by order, dated 18.08.2020, directed the respondents 1 to 3 therein, to consider her request, dated 28.01.2015 with regard to approval of additional qualification of M.Phil degree acquired in the year 2009. The third respondent without providing any opportunity of hearing, rejected the request of the petitioner, vide impugned order dated 11.01.2021.

4. Challenging the order of rejection, dated 11.01.2021, the present writ petition has been filed. The learned counsel for the petitioner submitted that the issue raised in the present writ petition has already been settled and this Court held that if at all the teacher acquired higher qualification for which the teacher is otherwise eligible to get the incentive increment the same cannot be denied on the sole ground that the teacher acquired higher education without prior permission and relied on the order of this Court,



dated 04.20.2019 in W.P. (MD)No.12472/2014 (T.David vs. The Director of School Education, Chennai and others) and submitted that reason for rejecting the proposal sent by the School, cannot be sustained.

5. The relevant portion of the order, **dated 04.10.2019 in W.P. (MD)No.12472/2014 (T.David vs. The Director of School Education, Chennai and others)** reads as under:-

"5. The learned Single Judge of this Court in the case of J.Tamilrajan vs The State of Tamil Nadu and others, by order dated 03.01.2019, has followed the unreported decision of this Court in a previous case, which is similar to the present case and held that the claims for incentive increment for acquiring higher qualification cannot be denied on the ground that undertaking higher education by the teacher was without prior permission."

6. The learned Additional Government Pleader appearing for the respondents submitted that the petitioner has acquired higher qualification without getting prior permission from the School authorities and hence, she is not entitled for incentive increment and prayed for dismissal of the writ petition.

7. In the order, dated 04.10.2019, made in W.P(MD)No.12472 of 2014, this Court has held that claims for incentive increment for acquiring higher qualification cannot be denied on the ground that pursuing higher education by the teacher was without prior permission. The said decision is squarely applicable to the facts of the present case.

8. In view of the above, this writ petition is allowed and the impugned order of the third respondent, dated 11.01.2021 is set aside. The respondents 1 to 3 are directed to consider the case of the petitioner and pass orders with regard to incentive increment, within a period of twelve (12) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1.The Director of School Education,
DPI Compound,
College Road,
Chennai

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



2.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli-9.

3.The District Educational Officer,
Tirunelveli District,
Tirunelveli-9.

+1 CC to M/s.SPL GP (SR-17580[F] dated 26/04/2021)

W.P. (MD)No.8357 of 2021
22.04.2021

SRK(CO)
KK(27.05.2021) 4P 5C