



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.10345 of 2021

and

W.M.P. (MD)No.8014 of 2021

WEB COPY

S.Akbar

... Petitioner

vs.

1. The State of Tamil Nadu
Rep. By its Secretary,
Department of School Education,
Fort St. George, Chennai - 600 009.
2. The Director of School Education,
College Road,
Chennai - 600 006.
3. The Chief Educational Officer,
Sivagangai, Sivagangai District.
4. The District Educational Officer,
Thirupathur Educational District,
Thirupathur, Sivagangai District.
5. The Secretary,
Vallalpari Higher School,
Piranmalai - 630 502,
Sivagangai District.

... Respondents

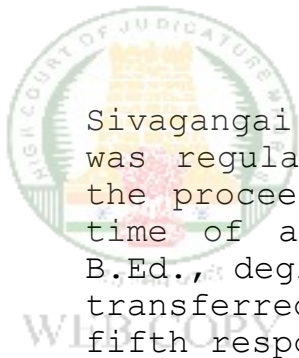
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 3 and 4 to sanction and award forthwith incentive increment to the petitioner for possessing M.Phil degree.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers
For Respondents : Mr.K.Selvaganesan,
Government Advocate for R1 to R4

ORDER

The present Writ petition is filed for a direction to the respondents 3 and 4, to sanction and award forthwith incentive increment to the petitioner for possessing M.Phil degree.

2. The petitioner was appointed as Junior Grade Graduate Teacher in Ilayaankudi Higher Secondary School, Ilayaankudi,



Sivagangai on 01.08.2005. Subsequently, the petitioner's appointment was regularised as B.T. Assistant with effect from 01.06.2006, by the proceedings of the fourth respondent dated 14.09.2006. At the time of appointment itself, the petitioner possessed M.Sc., and B.Ed., degrees. After various transfers, the petitioner was lastly transferred to the fifth respondent school and he is working in the fifth respondent school from 12.01.2015.

3. The Government, by issuing G.O.Ms.No.42, Education Department, dated 10.01.1969, took a policy decision to grant two incentive increments to encourage the teachers, who acquired higher qualification, so that the students will be benefited. As per the said Government Order, a teacher, who acquired higher qualification, is entitled to two incentive increments. The respondents sanctioned and disbursed to the petitioner only one incentive increment. Subsequently, the petitioner sought permission to acquire M.Phil degree, and gave a request to the fifth respondent and joined the course. The petitioner did not get any intimation from the respondents. The petitioner acquired M.Phil degree in the year 2018 and on verification, he came to know that fifth respondent has not forwarded his request to the third respondent. On enquiry by the third respondent, it was found that the fifth respondent forwarded the request to the President of the School, who did not forward the same to the third respondent. Subsequently, the fifth respondent sent a proposal to the third respondent to ratify the M.Phil qualification obtained by the petitioner. The third respondent rejected the same. The petitioner gave a representation for grant of incentive increment for acquiring M.Phil degree to the fifth respondent as well as directly to the third respondent. The third respondent has informed the petitioner that any request can be made only through the Secretary of the school i.e., the fifth respondent. The fifth respondent informed the petitioner that his request has been forwarded to the third respondent. In such circumstances, the petitioner has come out with the present Writ Petition.

4. The learned counsel appearing for the petitioner submitted that as per provisions of Tamil Nadu Private Schools (Regulation) Act, there is no procedure to obtain prior permission to acquire higher qualification. In support his submission, the learned counsel for the petitioner relied on the order of this Court dated **22.04.2021 in W.P. (MD)No.8357 of 2021 [R.Precialla Valantina Vs. The Director of School Education]**, in which following the earlier order of this Court **dated 04.10.2019 in W.P. (MD)no.12472/2014 (T.David Vs. The Director of School Education, Chennai and others)**, this Court allowed the Writ Petition claiming incentive increments.

5. The relevant portion of the order **dated 22.04.2021 in W.P. (MD)No.8357 of 2021 [R.Precialla Valantina Vs. The Director of School Education]**, reads as follows:

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



"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."

6. The respondents filed counter affidavit. Mr.K.Selvaganesan, learned Government Advocate appearing for the respondents 1 to 4 reiterated the averments made in the counter affidavit and submitted that the fifth respondent school has not forwarded the proposal submitted by the petitioner. The petitioner has directly sent a representation to the third respondent and hence, his request was rejected.



7. Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for the respondents 1 to 4 and perused the materials available on record carefully.

8. From the materials on record, it is seen that as per the Government Order in G.O.Ms.No.42, Education Department, dated 10.01.1969, a Teacher is entitled to get two incentive increments for acquiring higher qualification. Incentive increment is given to the Teachers to encourage them to acquire higher qualification, for the benefit of the students. In the present case, for acquiring M.Sc., degree, one incentive increment was given to the petitioner. The petitioner acquired M.Phil degree and therefore, he is seeking incentive increment. The same is pending with the respondents.

9. Considering the facts mentioned above, it will be just and proper to direct the fifth respondent to send the proposal to the respondents 1 to 4 within a period of two weeks from the date of receipt of a copy of this order and on receipt of such proposal, the respondents 1 to 4 are directed to pass orders on the proposal submitted by the fifth respondent, taking into account the order of this Court referred to above, wherein it has been held that the proposal for acquiring higher qualification cannot be denied on the ground that pursuing higher education by a teacher was without permission and pass orders in accordance with law within a period of four (4) weeks thereafter.

10. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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.



To

1. The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai - 600 009.

2. The Director of School Education,
College Road,
Chennai - 600 006.

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

4. The District Educational Officer,
Thirupathur Educational District,
Thirupathur, Sivagangai District.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-23445[F] dated 22/07/2021)

+1 CC to M/s. SPL GP (SR-23514[F] dated 22/07/2021)

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RC (03.08.2021) 5P-7C