



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED :10.03.2021

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

**W.P. (MD)No.3794 of 2017**

Dhavamani

...Petitioner

Vs

- 1.The Accountant General,  
Accounts and Entitlement,  
Nandanam, Chennai-600 018.
- 2.The Director of Pension,  
259, Anna Salai, Block 3,  
IInd Floor, DMS Compound,  
Teynampet, Chennai-06.
- 3.The District Elementary Educational Officer,  
Thoothukudi.
- 4.The Additional Assistant Elementary Educational Officer,  
Thoothukudi, Thoothukudi District.
- 5.The Secretary, BMC Primary School,  
Miller Puram, Thoothukudi-628 008,  
Thoothukudi District.

...Respondents

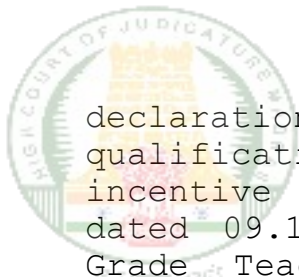
**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to re-fix the petitioner's pension by providing the withheld incentive increments within the time stipulated by this Court.

|                           |                                                              |
|---------------------------|--------------------------------------------------------------|
| For Petitioner            | :Mr.T.Lajapathi Roy                                          |
| For Respondent No.1       | :Mr.P.Gunasekaran                                            |
| For Respondent Nos.2 to 4 | :Mr.C.M.Marichelliah Prabhu<br>Additional Government Pleader |

**O R D E R**

The prayer sought for in the present writ petition is for a direction to the respondents to re-fix the petitioner's pension by providing the withheld incentive increments within the time stipulated by this Court.

2. The case of the petitioner is that the petitioner was appointed as a Secondary Grade Teacher in the 5<sup>th</sup> respondent School in the year 1993. At that time, she was not possessing Secondary Grade Teacher Training Certificate, however, she possessed B.Sc., B.Ed., qualification to hold the post of Secondary Grade Teacher. Hence, she was informed to give a declaration stating the she should not claim incentive for the possession of B.Ed., Degree and as per



declaration, she did not claim any incentive for B.Ed., Degree qualification. After passing M.Ed., Degree, she applied for incentive increment as per G.O.Ms.No.42 dated 10.01.1969 and 1024 dated 09.12.1993, wherein it is clearly stated that a Secondary Grade Teacher who passes M.Ed., Degree is eligible for one incentive, whether he/she is working as Secondary Grade Teacher of B.T/B.Ed/ Teacher. On the basis of the GO, the petitioner, being a Second Grade Teacher, was granted incentive for her M.Ed., Degree. In the meanwhile, the 4<sup>th</sup> respondent by his proceedings dated 21.09.2006 ordered to repay the incentive amount of Rs.46,593/- which the petitioner had already received on the ground that a Secondary Grade Teacher not possessing D.TEd., but appointed for acquiring B.Sc., B.Ed., qualification cannot be sanctioned incentive for acquiring M.Ed., qualification. As this objection was not justifiable, the petitioner preferred an appeal before the 3<sup>rd</sup> respondent and the Regional Audit Officer, Madurai requested to set aside the audit objection regarding the incentive increment. Moreover, the said objection is applicable for those, who were appointed between 11.07.1995 and 19.05.1998. Since the petitioner was appointed in the year 1993, the said objection is not applicable to the petitioner. Thereafter, the petitioner filed a writ petition before this Court in W.P.(MD).No.4315 of 2010. This Court has ordered interim stay by order dated 01.04.2010 in M.P.(MD).No.1 of 2010 in the said writ petition and the main writ petition is pending till date. In the meanwhile, the petitioner attained superannuation on 30.04.2014 and she was retired from service on 31.05.2014 after working re-employment. The grievance of the petitioner is that during fixation of pension, the sanctioned incentive increment was left out and was not paid to her from March 2006 to till the date of her retirement. Hence, she is receiving lesser pension amount and accordingly, she made a representation to the respondents on 30.01.2017 to re-fix the pension by adding the left out incentive increments at the earliest. But till date no order has been passed. Hence, the petitioner approached this Court with the above said prayer.

3. The learned counsel for the petitioner would submit that it would be suffice, if this Court issues a direction to the respondents to pass orders on considering the petitioner's representation dated 13.02.2017 within a reasonable time as fixed by this Court.

4. The learned Additional Government Pleader appearing for the respondents 2 to 4 has no serious objection to consider the representation dated 13.02.2017.

5. Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondents 2 to 4 and the learned counsel appearing for the first respondent.



6. Considering the facts and circumstances of the case and considering the submissions made by the learned counsel on either side, this Court, without going to the merits of the case, is inclined to issue a direction to the respondents to consider the representation of the petitioner within a reasonable time. Accordingly, this Court directs the respondents to consider the representation of the petitioner dated 13.02.2017, and pass appropriate orders, on merits and in accordance with law, within a period of twelve (12) weeks from the date of receipt of a copy of this order, if not disposed of already. The petitioner is directed to produce a copy of the representation along with a copy of this order to enable the respondents to take further action in this regard .

7. With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (AE)

// 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.*

**To:**

- 1.The Director of Pension, 259, Anna Salai, Block 3, IInd Floor, DMS Compound, Teynampet, Chennai-06.
  - 2.The District Elementary Educational Officer, Thoothukudi.
  - 3.The Additional Assistant Elementary Educational Officer, Thoothukudi, Thoothukudi District.
- +1 CC to M/s.T.LAJAPATHI ROY, Advocate ( SR-10286[F] dated 11/03/2021 )

+1 CC to M/s.SPL GP ( SR-10547[F] dated 11/03/2021 )

**W.P. (MD) .No.3794 of 2017**  
**10.03.2021**

RP (13.05.2021) P 6C