



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.11.2021**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P. (MD)Nos.375 to 386 & 463 to 472 of 2018

and

W.M.P. (MD)Nos.393 to 398, 400 to 405, 464 to 473, 7143 to 7145, 7147, 2473, 2475, 2990, 2991, 3356, 3463, 2908 to 2915, 2890, 2992, 2994, 2995 of 2018

P.V.Sumathi	... Petitioner in WP (MD). 375/ 2018
M.Vasuki	... Petitioner in WP (MD). 376/ 2018
K.Kalarani	... Petitioner in WP (MD). 377/ 2018
T.Ekambal	... Petitioner in WP (MD). 378/ 2018
R.Prathiba	... Petitioner in WP (MD). 379/ 2018
G.Anbazhagan	... Petitioner in WP (MD). 380/ 2018
R.Shanmugavalli	... Petitioner in WP (MD). 381/ 2018
P.Thavamani	... Petitioner in WP (MD). 382/ 2018
B.Nirmala	... Petitioner in WP (MD). 383/ 2018
L.Rani	... Petitioner in WP (MD). 384/ 2018
K.Lathaswari	... Petitioner in WP (MD). 385/ 2018
R.Kalaiselvi	... Petitioner in WP (MD). 386/ 2018
G.Parameswari	... Petitioner in WP (MD). 463/ 2018
A.Dhanalakshmi	... Petitioner in WP (MD). 464/ 2018
T.M.Venkateswari	... Petitioner in WP (MD). 465/ 2018
S.Thamilmani	... Petitioner in WP (MD). 466/ 2018
N.Chithra	... Petitioner in WP (MD). 467/ 2018
M.Mala	... Petitioner in WP (MD). 468/ 2018
P.Vasanthi	... Petitioner in WP (MD). 469/ 2018
S.Amutha	... Petitioner in WP (MD). 470/ 2018
A.Latha	... Petitioner in WP (MD). 471/ 2018
R.Anusuya	... Petitioner in WP (MD). 472/ 2018

1. The District Elementary Educational Officer,
Thanjavur District, Thanjavur.

2. The Assistant Elementary Educational Officer,
Pattukkottai Union, Thanjavur District.

... Respondents in WP (MD). 375, 378 & 384/ 2018



1. The District Elementary Educational Officer,
Thanjavur District, Thanjavur.
2. The Additional Assistant Elementary
Educational Officer, Peravurani Union, Thanjavur District.
... Respondents in WP(MD). 376, 383 & 385/ 2018

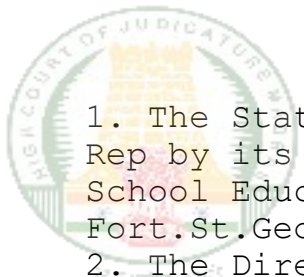
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1. The District Elementary Educational Officer,
Thanjavur District, Thanjavur.
2. The Assistant Elementary Educational Officer,
Sethubavachatram Union, Thanjavur District.
... Respondents in WP(MD). 377, 379, 380, 381, 382
& 386/ 2018

1. The State of Tamil Nadu
Rep by its Principal Secretary to Government,
School Education Department, Secretariat, Fort.St.George,
Chennai - 600 009.
2. The Director of Elementary Education,
DPI Campus, College Road, Chennai - 600 006.
3. The District Elementary Educational Officer,
Thanjavur District, Thanjavur.
4. The Assistant Elementary Educational Officer,
Madhukur Range, Thanjavur District.
... Respondents in WP(MD). 463 & 468/ 2018

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Govt.,
School Education Department, Secretariat,
Fort St. George, Chennai - 600 009
2. The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006
3. The District Elementary Educational Officer,
Thanjavur District, Thanjavur.
4. The Assistant Elementary Educational Officer,
Peravurani, Peravurani Taluk, Thanjavur District.
... Respondents in WP(MD). 464, 470 & 472/ 2018

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department, Secretariat,
Fort St.George, Chennai - 600 009.
2. The Director of Elementary Education,
DPI Campus, College Road, Chennai - 600 006.
3. The District Elementary Educational Officer,
Thanjavur District, Thanjavur.
4. The Assistant Elementary Education Officer,
Thiruvidaimaruthur,Panchayat Union,
Thanajvur District.
... Respondents in WP(MD). 465, 466, 467 & 469/ 2018



1. The State of Tamil Nadu,
Rep by its Secretary to Government,
School Education Department, Secretariat,
Fort.St.George, Chennai - 600 009.
2. The Director of Elementary Education, DPI Campus,
College Road, Chennai - 600 006.
3. The District Elementary Educational Officer,
Thanjavur District, Thanjavur.
4. The Assistant Elementary Educational Officer,
Ammappattai Range, Thanjavur District.

... Respondents in WP(MD). 471/ 2018

Prayer in WP(MD). 375/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd Respondent in Na.Ka.No.2920/A2/2017 dated 23/11/2017 and to quash the same and consequently directing the Respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., decree.

Prayer in WP(MD). 376/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.1378/A1/2017 dated 28.11.2017 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 377/ 2018 :

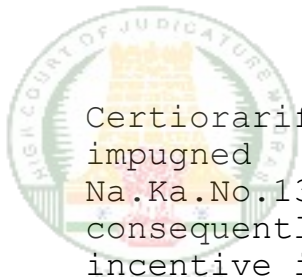
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.1313/A1/2017 dated 22.11.2017 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 378/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.2920/A2/2017 dated 23.11.2017 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 379/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of



Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd Respondent in Na.Ka.No.1313/A1/2017 dated 22/11/2017 and to quash the same and consequently directing the Respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

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Prayer in WP(MD). 380/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.1313/A1/2017 dated 22.11.2017 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 381/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.1313/A1/2017 dated 22.11.2017 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 382/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.1313/A1/2017 dated 22.11.2017 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 383/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd Respondent in Na.Ka.No.1378/A1/2017 dated 28/11/2017 and to quash the same and consequently directing the Respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 384/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.2920/A2/2017 dated 23.11.2017 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 385/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.1378/A1/2017 dated 28.11.2017 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 386/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.1313/A1/2017 dated 22.11.2017 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 463/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 4th Respondent in Na.Ka.No.975/A1/2017 dated 24/11/2017 and to quash the same and consequently directing the Respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 464/ 2018 :

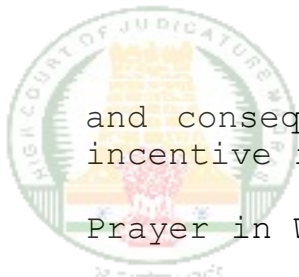
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 4th respondent in Na.Ka.No.1378/A1/2017 dated 28.11.2017 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 465/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 4th Respondent in Na.Ka.No. 1395/2018/A2/2018 dated 05.01.2018 and to quash the same and consequently directing the Respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 466/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 4th respondent in Na.Ka.No.1395/2018/A2/2018 dated 05.01.2018 and to quash the same



and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 467/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 4th Respondent in Na.Ka.No.1395/2018/A2/ 2018 dated 05/01/2018 and to quash the same and consequently directing the Respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 468/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 4th respondent in Na.Ka.No.975/A1/2017 dated 24.11.2017 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 469/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified mandamus, calling for the records relating to the impugned Proceedings issued by the 4th Respondent in Na.Ka.No. 1396/2018/A2/2018 dated 05.01.2018 and to quash the same and consequently directing the Respondents to continue to pay the incentive increment to the Petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 470/ 2018 :

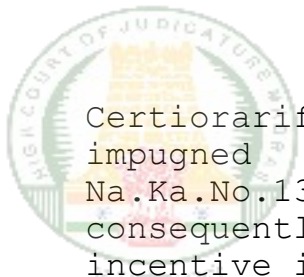
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 4th respondent in Na.Ka.No.1378/A1/2017 dated 28.11.2017 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 471/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 4th Respondent in Na.Ka.No.1220/A2/2017 dated 09/12/2017 and to quash the same and consequently directing the Respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD). 472/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of



Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 4th respondent in Na.Ka.No.1378/A1/2017 dated 28.11.2017 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

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For Petitioner : Mr.G.Sankaran
in W.P.(MD)Nos.375 to 386 of 2018
Mr.C.Santhosh Kumar
in W.P.(MD)Nos.463 to 472 of 2018
For Respondents : Mr.K.S.Selvaganesan
Standing Counsel for State
(in all WPs)

COMMON ORDER

This batch of 22 writ petitions has been filed by persons initially appointed as Secondary Grade Teachers in Elementary Education School system. They were thereafter promoted as Primary School Headmasters, based on their seniority.

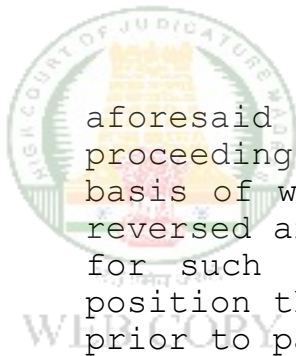
2.Since the facts and the issues that arise for resolution in all the writ petitions are common, a single order is passed disposing the batch.

3.In the interests of clarity, the facts and dates referred to in W.P.(MD)No.375 of 2018 in the case of P.V.Sumathi are adverted to in detail. To be noted that while there is identity of facts and legal issues in all matters, there are differences in regard to the dates of appointment and promotion, that are not material in deciding the legal issue arising in these matters.

4.P.V.Sumathi was appointed as a Secondary Grade Teacher on 16.12.1989, promoted as Primary School Headmistress in the year 2004 while, in the interim, acquiring B.Lit qualification in 1997. She was promoted to the post of Middle School Headmistress on 02.06.2010, and while in service, completed B.Ed., course on 28.12.2012. The benefit of G.O.Ms.107, Education Department, dated 20.01.1976 enured to her and she was granted incentive increment for having acquired B.Ed., degree.

5.While this is so, impugned proceedings dated 23.11.2017 has come to be issued like a bolt from the blue, cancelling the incentive increment granted and directing consequentially, the recovery of the same.

6.Learned counsel for the petitioner proceeds on the assumption that the impugned order has come to be passed, based upon a clarification dated 07.11.2014 issued by the Joint Director of Elementary Education. However, I do not see any reference to the



aforesaid clarification in the impugned order that refers to three proceedings dated 10.10.2017, 08.11.2017 and 15.11.2017, on the basis of which, the benefits granted to the petitioner in 2012 were reversed and recovery ordered. Impugned order contains no reasoning for such reversal and consequent recovery and it is an admitted position that no show cause notice has been issued to the petitioner prior to passing of the impugned order.

7. In these circumstances, without going into the merits of the matter, I deem it appropriate to set aside the impugned orders dated 22.11.2017 (W.P. (MD) Nos. 377, 379, 380, 381, 382, 386 of 2018), 23.11.2017 (W.P. (MD) Nos. 375, 378, 384 of 2018), 24.11.2017 (W.P. (MD) Nos. 463, 468 of 2018), 28.11.2017 (W.P. (MD) Nos. 376, 383, 385, 464, 470, 472 of 2018), 05.01.2018 (W.P. (MD) Nos. 465, 466, 467, 469 of 2018), and 09.12.2017 (W.P. (MD) Nos. 471 of 2018).

8. Liberty is however granted to the Assistant Elementary Educational Officer/R2 to issue show cause notices, within four weeks from today, supply to the petitioners the communications referred to in the impugned orders as well as any other materials on the basis of which the impugned reversal and recovery is proposed, hear the petitioners and thereafter, pass orders *de novo* within a period of six weeks from date of first hearing of the petitioners by R2.

9. The timelines set, as above, will be adhered to scrupulously and any violation of the same will disentitle R2 from initiating any further proceedings. To clarify, if a show cause notice is not issued within four weeks from today, the proceedings will stand abated. These writ petitions are disposed in the aforesaid terms, leaving all contentions on merits open, to be argued by the petitioners before the concerned authority, including reliance upon relevant case law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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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 Principal Secretary to Government,
School Education Department, Secretariat,
Fort st. George, Chennai 600 009.
2. The Director of Elementary Education,
DPI, Campus, Collage Road, Chennai 600 006.
- 3.The District Elementary Educational Officer,
Thanjavur District, Thanjavur.
- 4.The Assistant Elementary Educational Officer,
Pattukkottai Union, Thanjavur District.
- 5.The District Elementary Educational Officer, Thanjavur District,
Thanjavur.
- 6.The Assistant Elementary Educational Officer,
Madukur Range, Thanjavur District.
7. The Assistant Elementary Educational Officer,
Peravurani Union, Thanjavur District.
- 8.The Assistant Elementary Educational Officer,
Sethubavachatram Union, Thanjavur District.
9. The Assistant Elementary Educational Officer,
Thiruvidaimaruthur, Panchayat union, thanjavur District
- 10.The Assistant Elementary Educational Officer,
Ammappattai Range, Thanjavur District.
11. The Assistant Elementary Educational Officer,
Peravurani Taluk, Thanjavur District.

+1 CC to M/s.SPL.GP (SR-34109, 34027[F] dated 11/11/2021)

+13 CC to M/s.F.DEEPAK, Advocate (SR-34042, 33972[F])

Common Order made in

W.P. (MD) Nos.375 to 386 & 463 to 472 of 2018

Dated: 10.11.2021

TR(12.11.2021) 9P 26C