



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2021

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P. (MD)No.434 of 2016

and

W.M.P. (MD)Nos.354 and 3234 of 2016

and 18985 of 2018

S.Vijayalakshmi

... Petitioner

vs.

1.The Assistant Elementary Educational
Officer,
T.Vadipatti 625 218,
Madurai District.

2.The District Elementary Educational
Officer,
R.M.S. Road, Madurai 625 001.

3.The Director of Elementary Education,
College Road, Chennai 600 006.

... 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 of the first respondent made in Roc.No.1734/A1/2015, dated 13.11.2015 and to quash the same and to direct the first respondent to refund the amount already recovered from the petitioner's pay.

For Petitioner : Mr.B.Alagarsamy

For Respondents : M/s.D.Farjana Ghousia
Special Government Pleader

O R D E R

This petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the proceedings in Roc.No.1734/A1/2015, dated 13.11.2015 and to direct the first respondent to refund the amount already recovered from the petitioner's pay.

2.The petitioner was appointed as a Secondary Grade Teacher on 09.09.1991, then she was promoted as Primary School Headmaster on 01.12.2005. The petitioner acquired B.Litt., in Tamil on May 2001 and then promoted as Tamil Pandit in the Panchayat Union Middle School, vide proceedings, dated 19.05.2008 and the petitioner joined



the Tamil Pandit post on 02.06.2008. The petitioner was promoted as Head Master of Panchayat Union Middle School, vide proceedings, dated 23.05.2009 and the petitioner joined on 01.06.2009. The petitioner qualified her B.Ed., in the year 2010 and M.A., in the year 2011.

WEB COPY

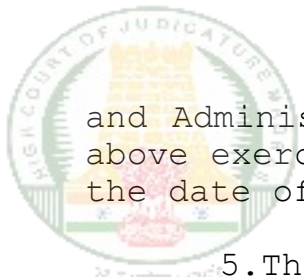
3. The petitioner is seeking incentive increment for B.Ed., as well as M.A. The qualification to be promoted as Middle School Head Master is B.Ed., degree or B.Lit. Since the petitioner is possessing B.Lit. qualification, the petitioner is eligible to be promoted as Middle School Head Master and based on the B.Lit., qualification the petitioner was already promoted on 23.05.2009. Since B.Ed., is considered as superfluous, the qualification cannot be considered as higher qualification for granting incentive increments. But, the petitioner is entitled to incentive increment for M.A., degree. The Government has issued G.O.Ms. No.37 Personnel and Administrative Reforms (FR-IV) Department dated 10.03.2020, has stated in Clause 6 sub clause (vi) that

"The person who have acquired higher qualification prior to issue of this general order and not sanctioned with advance increments be examined separately as per the previous orders issued, if any, by the administrative department concerned and with reference to the posts specified in that order and if he is otherwise qualified, then the advance increment may be sanctioned by the administrative department concerned, after obtaining concurrence of Finance Department. If no previous orders were issued by any of the department concerned, then they are not eligible for sanction of any advance increments for passing higher qualification irrespective of the post held / degree acquired.

In sub clause (vii) it has been held

"No fresh / further proposals will be entertained by Personnel and Administrative Reforms Department on this issue, in future"

4. In the present case, the petitioner has already received incentive increments and due to audit objection, the petitioner was directed to refund the amount to the Government. The petitioner has challenged the recovery order, dated 13.11.2015. Therefore, this Court is directing the respondents to process the case of the petitioner in the light of G.O.Ms.No.37 Personnel and Administrative Reforms (FR-IV) Department dated 10.03.2020. The second respondent is directed to place the entire file along with the Court order to the third respondent and the third respondent shall pass orders in the light of G.O.Ms.No.37 Personnel and Administrative Reforms (FR-IV) Department dated 10.03.2020, after getting appropriate orders from the Finance Department as stated in the G.O.Ms.No.37, Personnel



and Administrative Reforms (FR-IV) Department dated 10.03.2020. The above exercise shall be carried out within a period of 12 weeks from the date of receipt of the copy of the order.

5. Therefore, the Writ Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Tmg

To

1.The Assistant Elementary Educational
Officer,
T.Vadipatti 625 218,
Madurai District.

2.The District Elementary Educational
Officer,
R.M.S. Road, Madurai 625 001.

3.The Director of Elementary Education,
College Road, Chennai 600 006.

+1 CC to M/s.B.ALAGARWSAMY, Advocate (SR-38991[F] dated
16/12/2021)

+1 CC to M/s.SPL GP (SR-39286[F] dated 17/12/2021)

W.P. (MD) No.434 of 2016

16.12.2021

RK(07/01/2021) 3P 6C