



W.P.No. 2043 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.2043 of 2019
and WMP.No.2299 of 2019

G.Saraswathi,
W/o. V.Balakrishnan

..Petitioner

Vs.

1. The Government of Tamil Nadu,
represented by its Secretary,
School Education Department,
Fort St. George, Chennai – 600 009.
 2. The Director of Elementary Education,
College Road, Chennai – 600 006.
 3. The District Education Officer,
Chengelpet, Kancipuram District – 603 002.
 4. The Block Education Officer,
Kattangulathur Panchayat Union,
Kanchipuram District.
 5. The Headmaster, Panchayat Union Primary School,
Karanaiputhuchery, (Near Urapakkam),
Kattankulathur Panchayat Union,
Kancheepuram District.
- .. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India
for Writ of Certiorarified Mandamus, calling for the records relating to



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the order passed by the 2nd respondent in his proceedings Na.Ka.No.017731/E1/2015 dated 24.08.2016 and the consequential order of the third respondent passed in Na.Ka.No.2043/A2/2018 dated 14.12.2018 and quash the same and direct the respondents 1 to 4 to sanction two incentive increments for acquiring higher qualification i.e., for passing B.Ed and M.A. Degrees from December 2015 in terms of G.O.No.42 Education Department dated 10.01.1969.

For Petitioner : Mr.P.Ebenezer Paul
For Respondents : Mr.U.M.Ravichandran
Special Government Pleader

ORDER

The prayer sought for herein is for a writ of certiorarified mandamus, to quash the order passed by the 2nd respondent in his proceedings Na.Ka.No.017731/E1/2015 dated 24.08.2016 and the consequential order of the third respondent passed in Na.Ka.No.2043/A2/2018 dated 14.12.2018 and direct the respondents 1 to 4 to sanction two incentive increments for acquiring higher qualification i.e., for passing B.Ed and M.A. Degrees from December 2015 in terms of G.O.No.42 Education Department dated 10.01.1969.



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2. The petitioner has been working as a Secondary Grade Teacher at the fifth respondent school. She already qualified with a B.A. Economics degree. However, subsequently in order to acquiring the higher qualification, she acquired M.A. Economics qualification as well as the B.Ed qualification.

3. For such higher qualification, the petitioner requested the respondents to give advance incentive increment i.e., two advance incentive increments for having qualified two higher qualification viz., M.A. Economics and B.Ed degree.

4. However, the said request of the petitioner has been rejected by the third respondent vide his proceedings dated 14.12.2018, where only the reasons cited by the third respondent for such rejection is the proceedings issued by the second respondent dated 24.08.2016 in Na.Ka.No.01773/E1/2015.

5. Therefore, challenging the second respondent proceedings dated 24.08.2016 and the order passed by the third respondent dated



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14.12.2018, the petitioner has moved the present writ petition.

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6. Heard Mr.P.Ebenezer Paul, learned counsel appearing for the petitioner, who would submit that, insofar as the entitlement of the advance incentive increments for having acquired the higher qualification it has already been recognized by issuing necessary Government Orders in this regard from time to time by the Government. Therefore, if at all any decision to be taken either to extent the benefit of advance incentive increment or to deduct the same that should emanate only from the Government and therefore independently, the second respondent cannot *suo motu* issue any proceedings as has been issued on 24.08.2016 restricting such granting of advance incentive increments for only those who acquired higher qualification in certain subjects and not in other subjects and moreover, based on such proceedings issued by the second respondent dated 24.08.2016 since the plea of the petitioner has been rejected by the third respondent through the order dated 14.12.2018 it would not stand in the legal scrutiny.

7. The learned counsel appearing for the petitioner would further submit that, in the counter affidavit filed by the respondents in support of this impugned proceedings, they relied upon the same order of the second respondent dated 24.08.2016 along with G.O.Ms.No.624 Education (E2)



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Department dated 13.07.1992.

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8. Insofar as the G.O.Ms.No.624 Education (E2) Department dated 13.07.1992 is concerned, it has been subsequently deleted i.e, the main criteria fixed in paragraph 3 of the G.O.Ms.No.624 Education (E2) Department dated 13.07.1992 has been deleted by the subsequent Government Order in G.O.Ms.No.324, Education Science and Technology Department (E2) dated 25.04.2005 and that deletion has been given effect to retrospectively with effect from 17.09.1986, where the only relevant criteria is that, the relevant subject means that the subject in the higher secondary syllabus shall be the relevant subject. The M.A.Economics and B.Ed degree are the relevant subjects, which can be treated as relevant subject for the purpose of higher secondary syllabus and therefore as per the said G.O.Ms.324 alone, the case of the petitioner ought to have been considered and without considering the case in proper perspective under the proper Government Order since they relied upon the proceedings of the second respondent dated 24.08.2016 and G.O.Ms.No.624 dated 13.07.1992, which has been subsequently deleted as stated supra, since the order impugned has been passed, which is an infirm one, he contended.



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Pleader appearing for the respondents by relying upon the averments made in the counter affidavit would submit that, insofar as the proceedings dated 24.08.2016 issued by the second respondent is concerned, the intention of the Government as well as the Department has been reflected, where the purpose of giving the incentive increment is to encourage the teaching staff to acquire more qualification on the same subject, where it may be useful for the teacher concerned for teaching the subject in the school concerned, where they have been working. Suppose, a teacher is acquired more qualification or higher qualification in a irrelevant subject, which could not be utilized or used for the purpose of teaching by the incumbent concerned throughout her or his career then there is no meaning in giving any such incentive increments for acquired such higher qualification. Therefore, such intention of the G.O.Ms.No.624 alone is reflected in the order of the second respondent dated 24.08.2016 and based on which only, now the impugned order has been made since the petitioner only being a Secondary Grade Teacher has not going to teach economic subject in any other class unless and until she gets promotion in the high school or in the higher secondary school.



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Hence, the relevancy of the subject cannot be taken into account for the purpose of advance incentive increment and accordingly, the reasons stated by the respondents in rejecting the plea of the petitioner is to be sustained, he contended.

10. I have considered the said rival submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

11. The only reason cited by the third respondent in the rejection order dated 14.12.2018 is the proceedings issued by the second respondent dated 24.08.2016. The 24.08.2016 proceedings was issued by the second respondent relying upon the G.O.Ms.No.134, School Education(G2) Department, dated 15.06.2007.

12. On perusal it is found that G.O.Ms.No.134, School Education(G2) Department, dated 15.06.2007 does not speak anything about the incentive increment.

13. That apart in the counter affidavit in order to sustain the impugned order, they once again relied upon the proceedings dated



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24.08.2016 as well as the G.O.Ms.No.624 dated 13.07.1992.

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14. As has been rightly pointed out by the learned counsel appearing for the petitioner that G.O.Ms.No.624 dated 13.07.1992 and the import of the Government Order has been deleted by the subsequent Government Order in G.O.Ms.No.324, Education Science and Technology Department (E2) dated 25.04.2005. The relevant portion of the Government Order reads thus:

“5. The Government accordingly direct that

a. The conditions (i) to (iii) in para 3 of G.O.Ms.No.624, Education dated 13.07.1992 be deleted, ii) For the sanction of incentive increments, the subjects in the Higher Secondary Syllabus shall be the relevant subjects.

b. In respect of the teachers in Physical Education they are eligible for the incentive for higher qualification only in physical education.

c. These orders will take retrospective effect from 17.09.1986 to cover past cases.

d. The teachers who have acquired higher qualification in subjects other than higher secondary syllabus shall not be eligible for any incentive increment.

6. This order issues with the concurrence of Finance vide



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its U.O.No.235, JS(IF) Education, dated 24.04.1995.”

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15. Therefore the present Government Order makes it clear that, for the sanction of incentive increment for the subjects in the higher secondary syllabus which shall be the relevant subjects. Moreover, this deletion would take retrospective effect from 17.09.1986, therefore, nothing stated in G.O.Ms.No. 624 would prevail upon the incentive increment benefit to be extended to the eligible persons.

16. Insofar as the relevant subject in higher secondary syllabus is concerned, M.A. Economics as well as the B.Ed degree is one of the relevant subject, therefore, such a qualification if acquired by the petitioner, this Court feels that, certainly the petitioner would be entitled to get such incentive increment.

17. However, in the impugned order they have stated that, in future if the petitioner gets promotion in the high school or higher secondary school to teach higher secondary class then such a plea of the petitioner to give incentive increment can be considered.



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18. This is also under wrong notion because, once the petitioner promoted as a B.T Assistant and P.G Teacher to teach higher class in high school or higher secondary school, the very B.Ed degree or P.G. Degree is an essential qualification. Therefore that cannot be treated as a higher qualification acquired by the petitioner and only it would be treated as an essential qualification, therefore that would not be treated as a qualification for the purpose of incentive increment. Hence, that reasons cited by the respondents in the impugned order for rejecting the plea of the petitioner is also, in the considered opinion of this Court, is untenable.

19. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

- ◆ The impugned order viz., the order dated 14.12.2018 passed by the third respondent is hereby set aside and the matter is remitted back to the third respondent to reconsider the plea of the petitioner for grant of advance incentive increment for the higher qualification of B.Ed and M.A. Economics acquired by the petitioner and while deciding the same, the proceedings issued by the second respondent dated 24.08.2016, which is also impugned herein shall



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not be taken into account as that kind of proceedings cannot overwrite the policy taken by the Government, which is reflected in the Government Order as referred to above and therefore, independently based on the extent Rule as well as the Government Order in this regard, which are issued already as indicated above, the third respondent shall reconsider the plea of the petitioner and accordingly pass a reasoned order with regard to sanctioning the advance incentive increment for having acquired the higher qualification as indicated above.

- ◆ The needful as indicated above shall be undertaken by the third respondent within a period of eight (8) weeks from the date of receipt of a copy of this order.

With these directions, this writ petition is disposed of accordingly.

No Costs. Connected miscellaneous petition is closed.

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Index : Yes
Internet: Yes

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R.SURESH KUMAR.J,

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