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W.P.No.36339 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

Writ Petition No.36339 of 2016
and WMPNo.31228 of 2016

J.Muthezelan

..Petitioner

Vs.

1. The Principal Secretary to Government
School Education Department,
Secretariat, Chennai 9.
2. The Director,
School Education Department,
DPI Campus, Nungambakkam,
Chennai 600 006.
3. The Chief Educational Officer,
Nagapattinam.
4. The District Programme Co-ordinator,
Sarva Shiksha Abiyan Scheme,
Nagapattinam

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 18.08.2016 vide Reference



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No.A.T.M.No.2701/A1/ATE/2016, passed by the fourth respondent herein and quash the same and consequently directing the third respondent to give increment on pay scale of the petitioner, on the basis of G.O.(2D) No.15, School Education (J) Department, dated 28.03.2013, which was issued by the first respondent herein.

For Petitioner : Mr.M.Venkatakrishnan

For Respondents : Mrs.S.Mythreye Chandru
Spl. Govt. Pleader, for RR 1 to 4

ORDER

(Order of the Court was delivered by R.SUBRAMANIAN, J.)

The Writ Petition has been posted upon a reference being answered by a Full Bench of this Court in WA No.3674 of 2019 etc. batch dated 29.04.2022. A reference was made to a Full Bench in view of the conflict between two Division Bench judgments of this Court, one in WA (MD) Nos.701 and 769 of 2015 etc., dated 15.07.2015 (***The Director of School Education and others v. S.Amalraj***) holding that a teacher is entitled to a third set of incentive increment on account of acquiring higher qualification and the other in WA No.1664 of 2016 dated 29.06.2018 (***The Director of School Education and others v. V.Dhanapal***) taking a contrary



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view and concluding that a teacher, during the entire tenure of service, would be entitled to only two sets of incentive increments and nothing more.

2. Upon a reference being made, the Full Bench had answered the issue concluding that the judgment of the Division Bench in WA. No.1664 of 2016 dated 29.06.2018 reflects the correct position of law. After considering the various Government Orders issued on the subject, the Full Bench had observed as follows:

“12. A perusal of the above order puts the issue beyond pale of doubt that as per the policy of the Government, a teacher for the entire period of his/her service shall be granted two incentives (four increments) only. Therefore, there cannot be any dispute regarding the fact that a Secondary Grade Teacher or B.T.Assistant or Post Graduate Teacher during the entire period of service as a teacher, is entitled to get only two incentive increments. Taking note of the same only, the Division Bench in W.A.No.1664 of 2016 dated 29.06.2018 (The Director



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of School Education and others v. V.Dhanapal) has categorically held that the acquisition of an M.Phil. qualification does not entitle a teacher for a third incentive increment, in view of G.O.Ms.No.1024, Education, Science and Technology Department, dated 09.12.1993 restricting the number of incentive increments to two and therefore, any teacher is not entitled to a third incentive increment.”

3. An attempt is made by Mr.Sasidharan and Mr.Ganesan, appearing for some of the teachers to contend that those teachers who have obtained the additional qualification prior to 09.12.1993, namely the date on which G.O.Ms.Nos.1023 and 1024 came to be issued would be entitled to incentive increments, since the number of increments was limited only by the said two Government Orders. We are unable to accept the said contention of the learned counsel appearing for some of the respondents because the Full Bench has categorically held that any teacher during the entire period of his/her tenure would be entitled only to two sets of incentive increments.



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4. In view of the categorical pronouncement of the Full Bench extracted above, we cannot take any other view. Hence the Writ Petition filed by the petitioner seeking incentive increments will stand dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(R.SUBRAMANIAN, J.) (K.KUMARESH BABU,

J.)

10.10.2022

Index: Yes/no

Internet: Yes/no

speaking order/non speaking order

jv

To

1. The Principal Secretary to Government
School Education Department,
Secretariat, Chennai 9.
2. The Director,
School Education Department,
DPI Campus, Nungambakkam,
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