



WEB COPY



W.P.No. 25509 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.09.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No. 25509 of 2022

C.D.Rajendiran

..Petitioner

Vs.

1. The Secretary,
School Education Department,
Fort. St. George,
Chennai – 600 009.

2. The Education Commissioner,
D.P.I. College Road,
Chennai – 600 006.

3. The District Educational Officer,
District Educational Office (East)
Chennai – 600 093.

4. The Correspondent,
K.C.Sankaralinga Nadar Hr.Sec. School,
Old Washermenpet,
Chennai – 600 021

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for Writ of Mandamus, directing the 1st and 2nd respondent to consider the petitioner's appeal as representation dated on 04.04.2022 for the sanction of 3rd incentive increment for the possession of M.Phil degree in the light of this Court order in W.A.(MD).No.867 of 2014 dated 18.09.2014.



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For Petitioner : Mr.T.Suresh

For Respondents : Mr.S.Yashwanth
Additional Government Pleader

ORDER

The prayer sought for herein is for a writ of mandamus directing the 1st and 2nd respondents to consider the petitioner's appeal as representation dated 04.04.2022 for the sanction of 3rd incentive increment for the possession of M.Phil degree in the light of this Court order in W.A.(MD).No.867 of 2014 dated 18.09.2014.

2. The petitioner was working as P.G.Assistant in Economics. He has acquired the qualification of M.Phil degree, for such acquiring of higher qualification, the petitioner sought for third advance incentive increment and the same since has not been given, he has given a representation to that effect on 04.04.2022 and since the same has also not been considered, he has approached this Court by filing the present writ petition.

3. Heard Mr.T.Suresh, learned counsel appearing for the petitioner, who by relying upon the orders passed by the Division Bench of this



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Court in ***W.A.(MD).No.867 of 2014*** in the matter of ***The Director of School Education, Chennai Vs. N. Balasoundari***, under which the petitioner is entitled to get the third advance incentive increment for the higher qualification acquired by him.

4. However, Mr.S.Yashwanth, learned Additional Government Pleader appearing for the respondents has submitted that there were two set of decision by separate Division Benches of this Court. The first set of decision is ***W.A.No.1664 of 2014*** dated ***29.06.2018*** in the matter of ***The Director of School Education and Ors. Vs. V.Dhanapal*** and in ***W.A.(MD).Nos.701 and 769 of 2015 etc.***, dated ***15.07.2015*** in the matter of ***The Director of School Education and Ors. Vs. S.Amalraj*** and the second set of decision is ***W.A.(MD).No.867 of 2014*** dated ***18.09.2014***, which is now relied upon by the petitioner. In view of these two conflicting decisions, where one set of decision stated that incumbents are entitled to get third advance incentive increment and another set of decision stated that they are not entitled to get third advance incentive increment, therefore, to get authoritative pronouncement, the matter has been referred to Full Bench of this Court. The Full Bench, after having considered this issue exhaustively has passed an order disposing the set



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of cases in ***W.A.No.3674 of 2019 etc.,batch*** in the matter of

Government of Tamil Nadu Rep. by its Secretary, School Education

Department & ors. Vs. R.Subramani & Ors. by order dated 29.04.2022,

where the Full Bench had ultimately held as follows:

“13. In the light of the above, we are of the considered opinion that the view taken by the Division Bench in W.A.No.1664 of 2016 dated 29.06.2018 (The Director of School Education and Ors. Vs.V.Dhanapal) that a teacher shall be granted only with two incentive increments, equivalent to four advance increments, for the entire period of his/her service, holds good and the view taken by the Division Bench in W.A.(MD).Nos.701 and 769 of 2015 etc., dated 15.07.2015 (The Director of School Education and Ors. Vs.S.Amalraj) and the view taken by another Division Bench in W.A.(MD)No.867 of 2014 dated 18.09.2014 (The Director of School Education and Anr. Vs. N.Balasoundari and Anr) that a teacher is entitled to the third set of incentive increment, cannot be said to be a good law. We answer the reference accordingly.

Registry is directed to post the matters before the appropriate roster Bench for disposal of the respective cases on merit.”

5. Relying upon this Full Bench decision, the learned Additional

Government Pleader would contend that, as per the law declared by the



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Full Bench, the petitioner is not entitled to get any third advance incentive increment for the higher qualification acquired by him.

Therefore, the plea raised by the petitioner cannot be granted.

6. 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.

7. In view of the declaration made by the Full Bench of this Court as referred to above, the petitioner since is not entitled to get any advance incentive increment for his higher qualification, the plea raised by the petitioner cannot be considered and granted. Therefore, this Court is not inclined to grant any direction by way of mandamus as sought for in this writ petition.

Accordingly, this writ petition fails hence, it is dismissed. No costs.

22.09.2022

Index : Yes/No

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R.SURESH KUMAR, J.

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