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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 Appeal Nos.717 and 718 of 2017
and C.M.P.Nos.9859 and 9860 of 2017

1.The Secretary to the Government,
School Education Department,
Fort St.George, Secretariat,
Chennai-9.

2.The Director of School Education,
College Road,
Chennai-600 006. ...Appellants in both Appeals

3.The Chief Educational Officer,
Pudukkottai District,
Pudukottai.

4.Headmaster,
Government Higher Secondary School,
Viralimalai - 621 306,
Pudukottai District. …Appellants in W.A.No.717/2017

3.The District Educational Officer,
Cudddalore-1, Cuddalore District. ...Appellant in W.A.No.718/2017

Vs.

K.Balakrishnan ...Respondent in W.A.No.717/2017

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1.A.Anthony Raj

2.The Correspondent,
St.Joseph's Higher Secondary School,
Manjakuppam,
Cuddalore - 607 001.
(2nd respondent not necessary party, hence notice may be given up) ...Respondents in W.A.No.718/2017

Common Prayer: Writ Appeals filed under Clause 15 of Letters Patent, against the orders passed by this Court dated 13.02.2014 and 21.02.2014 made in W.P.No.4110 of 2014 and W.P.No.34881 of 2013.

For Appellants in both Appeals : Mrs.S.Mythreye Chandru
Special Govt. Pleader (Edn.)

For Respondent in both Appeals : Mr.S.Kamadevan

For R2 in W.A.No.718/2017 : Notice given up

C O M M O N J U D G M E N T

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

The Writ Appeals have been posted upon a reference being answered by a Full Bench of this Court in W.A.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 W.A.(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

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third set of incentive increment on account of acquiring higher qualification and the other in W.A.No.1664 of 2016 dated 29.06.2018 (***The Director of School Education and others v. V.Dhanapal***) taking a contrary 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 W.A.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*

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W.A.No.1664 of 2016 dated 29.06.2018 (The Director 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 Appeals filed by the Government will stand allowed and the Writ Petitions will stand dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

(R.SUBRAMANIAN, J.) (K.KUMARESH BABU, J.)
10.10.2022

Index: No
Internet: Yes
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To

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