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W.P.No.14446 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14446 of 2017

and

W.M.P.Nos.15653 & 15654 of 2017

Jothilingam

...Petitioner

Vs.

1.The Director of Elementary Education,
DPI Complex, College Road,
Chennai – 6.

2.The District Elementary Education Officer,
Nagapattinam.

3.The Assistant Elementary Education Officer,
Kollidam, Sirkali Taluk,
Nagapattinam District.

4.The Head Master,
Panchayat Union Elementary School
Pattiya medu,
Mathirivelur Post – 609 108,
Kollidam Union, Sirkali Taluk,
Nagapattinam District.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India,
to issue a Writ of Certiorarified Mandamus, calling for the records of 1st



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respondent's proceedings in Na.Ka.No.017732/E1/2015 dated 24.8.2016 and quash the same and further direct respondents 1-3 to sanction the petitioner two incentive increments for acquiring higher qualifications of M.Com and B.Ed., degrees as per Government order G.O.Ms.No.324, Education Science and Technology Department (E2) dated 25.4.2005.

For Petitioner : Mr.B.Jawahar

For R1 to R4 : Mrs.S.Mythreyechandru
Special Government Pleader

ORDER

The order of rejection, rejecting the claim of the writ petitioner for sanctioning of two incentive increments for acquiring the higher qualifications of M.Com., and B.Ed., is under challenge in the present writ petition.

2. The petitioner is working as Secondary Grade Teacher in the 4th respondent Panchayat Union Elementary School. The petitioner states that he acquired B.Com., degree in April 1995, M.Com., degree in May 2000 and B.Ed., degree in May 2013. Based on the M.Com., and B.Ed., degree, the petitioner submitted an application to sanction incentive increment as per G.O.Ms.No.324, Education Science and Technology Department [E2]



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dated 25.04.2005. The authorities have rejected the claim of the writ petitioner mainly on the ground that the petitioner has not acquired the higher educational qualifications relating to the subject, which all are taught by him as Secondary Grade Teacher. In other words, the authorities found that the petitioner has not acquired the relevant educational higher qualifications and therefore, he is not entitled for incentive increment.

3. The learned counsel for the petitioner mainly contended that G.O.Ms.No.324, Education Science and Technology Department [E2] dated 25.04.2005 is applicable to the writ petitioner and there is no such restriction with reference to the relevant subject. In the absence of any such restriction under the Government order, the petitioner is eligible for incentive increment for acquiring the higher educational qualifications of M.Com., and B.Ed., degrees.

4. The learned Special Government Pleader appearing on behalf of the respondents objected the said contentions by stating that even as per the Government order issued in G.O.Ms.No.324, Education Science and Technology Department [E2] dated 25.04.2005, the petitioner is eligible for



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incentive increment only if he acquired the relevant subject attached to the post, in which, he is working. Even in Paragraph No.4 of the said Government order, there is a mentioning about the relevant subjects. In Paragraph No.5 (a) of the Government order, it is categorically stated that “For the sanction of incentive increments, the subjects in the Higher Secondary Syllabus shall be the relevant subjects”. Therefore, the petitioner is not eligible, since he has not touched Commerce subject in Schools and more so, he is holding the post of Secondary Grade Teacher.

5. The petitioner admittedly is working as a Secondary Grade Teacher at Panchayat Union Elementary School. There is no provision in the existing guidelines for sanctioning of incentive increment to Secondary Grade Teacher for acquiring higher degree qualification other than the syllabus in which they are engaged in teaching. Hence, the petitioner's request was rejected by the third respondent.

6. With reference to G.O.Ms.No.324, Education Science and Technology Department [E2] dated 25.04.2005, it is relevant to extract Paragraph No.6 of the counter affidavit filed by the 2nd respondent.



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“The Government order in G.O.Ms.No.324, Education Science and Technology Department [E2] dated 25.04.2005 relates to the teachers working in Higher Secondary Schools and it is not made applicable to the Secondary Grade Teachers working in Elementary Schools. It is submitted the Secondary Grade Teachers are eligible for Incentive Increment only in respect of the following higher degree qualification as per Government order in G.O.Ms.No.42, Education Department dated 10.01.1969.

Category	Scale of Pay	Higher qualification for which two advance increments are admissible
Secondary or Senior Basic Grade Teacher	90-4-220-3-240	B.T. or B.Ed. degree of a University in the State or the degrees of other Universities recognised as equivalent to the degree of B.T. or B.Ed. degree of Universities of other State.

It is further submitted that the Government have issued guidelines in G.O.Ms.No.624, Education (E2) Department dated 13.07.1992 with regard to sanction of incentive increment to teachers. Para 3 (iii) of the above Government order is extracted below:

“iii. In respect of teacher enrolling during 1992-93 and after, sanction of increments shall be restricted to developing areas of study and subjects where teacher shortage has been identified. The Director



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of School Education will identify the subjects for purposes of incentive increment in which teachers will be encouraged to qualify in consultation with the Government in all future case. The intention is to encourage the teachers to get higher qualification in those specially selected subjects.”

Admittedly, the petitioner is presently working as Secondary Grade Teacher in Elementary School and the syllabus is only, Tamil, English, Maths, Science, Social Science. It is submitted that acquiring higher degree in Commerce subject will not serve any purpose. Hence, the Government order quoted by the petitioner is applicable to the teachers working in High Schools and Higher Secondary Schools. Hence this contention of the petitioner has no merit.

7. In paragraph 9 of the counter affidavit also, the 2nd respondent has stated as follows:

“The Government have already issued orders in G.O.Ms.No.42 Education Department dated 10.1.1969

Category	Scale of Pay	Higher qualification for which two advance increments are admissible
Secondary or Senior	90-4-220-3-240	B.T. or B.Ed. degree of a University



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Category	Scale of Pay	Higher qualification for which two advance increments are admissible
Basic Grade Teacher		in the State or the degrees of other Universities recognised as equivalent to the degree of B.T. or B.Ed. degree of Universities of other State.

It is further submitted that the Government have issued guidelines in G.O.Ms.No.624, Education (E2) Department dated 13.07.1992 with regard to sanction of incentive increment to teachers. Para 3 (iii) of the above Government order is extracted below:

“iii. In respect of teacher enrolling during 1992-93 and after, sanction of increments shall be restricted to developing areas of study and subjects where teacher shortage has been identified. The Director of School Education will identify the subjects for purposes of incentive increment in which teachers will be encouraged to qualify in consultation with the Government in all future case. The intention is to encourage the teachers to get higher qualification in those specially selected subjects.”

Accordingly to the above orders, the petitioner is not entitled for incentive increment for M.Com., degree. As per the orders read above, the 1st respondent is the competent authority to identify the subjects for the purpose of granting incentive increment to teachers. Hence this contention of the



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petitioner has no basis.”

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8. The very scheme of grant of incentive increment is a concession to the Teachers. The concession was granted only to encourage the Teachers to acquire higher educational qualifications for the purpose of imparting better education to the children studying in the School. Incentive increment is not a part of Service Conditions and it is a concession granted only in the event of acquiring higher educational qualifications relevant to the subject, in which, the Teacher is taking class in Schools. Thus, the qualification acquired by a Teacher must be relevant for the purpose of imparting education to the children in the School and irrelevant subjects cannot be considered as a criteria for the purpose of sanctioning incentive increment.

9. The very purpose of the scheme of incentive increment is to encourage the Teachers. By acquiring the irrelevant subject, the same would not be of any assistance for imparting better education to the children and therefore, the qualification acquired must be relevant to the subject and the post in which the Teacher is working.



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10. In the present case, the petitioner is working as Secondary Grade Teacher and taking classes for the subjects of Tamil, English, Mathematics, Science and Social Science and the M.Com., degree acquired by him is of no relevance as to the post of Secondary Grade Teacher is concerned.

11. Thus, this Court do not find any infirmity in respect of the order impugned passed by the 1st respondent and accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

07.11.2022

Index : Yes
Speaking order: Yes
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S.M.SUBRAMANIAM, J.

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