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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 No.1810 of 2019
and CMP No.12258 of 2019

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

2.The Director of Elementary Education,
College Road, Nungambakkam,
Chennai – 6.

3.The District Elementary Educational Officer,
Nagapattinam, Nagapattinam District.

4.The Additional Assistant Elementary Educational Officer,
Vedaranyam, Vedaranyam Taluk,
Nagapattinam District. ..Appellants

Vs.

1.V.Chithiravelu

2.The Secretary,
Gnanambiga Aided Elementary School,
Karuppambulam Post,
Vedaranyam Taluk,
Nagapattinam District. .. Respondents

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Prayer: Writ Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.7396/2014 dated 21.03.2014.

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

For Respondents : Not ready in notice-R1
R2 – Given up

J U D G M E N T

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

The Writ Appeal 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 view and

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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 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*

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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.

4. In view of the categorical pronouncement of the Full Bench extracted above, we cannot take any other view. Hence the Writ Appeal filed by the Government will stand allowed and the Writ Petition will stand

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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 Secretary to the Government,
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(jv)

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