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W.A.No.1667 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Writ Appeal No.1667 of 2019
and CMP No.11286 of 2019

The Assistant Elementary Educational officer,
O/o. The Assistant Elementary Educational Officer,
Dharmapuri. .. Appellant/Respondent

Vs.

1. C.Nirmala

2. The Head Mistress,
Municipal Middle School,
Mathiconpalayam,
Dharmapuri. .. Respondents/Petitioner

Prayer: Writ Appeals filed under Clause 15 of Letters Patent, against the
order passed by this Court in W.P. No.7351 of 2016 dated 29.02.2016.

For Appellant : Mr. G.Nanmaran
Special Government Pleader

For Respondent : Mr.C.Munusamy, for R1

No appearance for R2



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J U D G M E N T

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

The Appellant is aggrieved by the grant of third incentive increment to the first respondent for acquiring Higher Educational Qualifications.

2. The first respondent, a teacher in the Panchayat Union Middle School, Pennagaram, sought for third incentive increment for having acquired Higher Educational Qualification. The Writ Court relying upon the judgment in ***S.Joseph v. The District Educational Officer, Madurai***, made in WP (MD) No.14651 of 2015 allowed the Writ Petition on 21.08.2015. Since there was a conflict of opinion on the entitlement of the Teachers to third incentive increment for acquiring higher qualification between the judgments of this Court in ***The Director of School Education and others v. S.Amalraj*** made in WA (MD) Nos.701 and 769 of 2015 etc., dated 15.07.2015 and the judgment of the Division Bench at the Principal Seat in ***The Director of School Education and others v. V.Dhanapal***, made in WA No.1664 of 2016 dated 29.06.2018, a reference was made to a Full Bench of this Court.



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3. 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.



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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. In view of the categorical pronouncement of the Full Bench extracted above, we cannot take any other view. Hence the Writ Appeal will stand **allowed** setting aside the order of the Writ Court. The Writ Petition will stand dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(R.S.M., J.) (S.S.K., J.)
23.12.2022

Index: No
Internet: Yes
Speaking order
jv



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To

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2. The Head Mistress,
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R.SUBRAMANIAN, J.
and
SATHI KUMAR SUKUMARA KURUP, J.
(jv)

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