



W.P.(MD)No.1892 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.1892 of 2020

A.Raveendar

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary to the Government,
Department of School Education,
Fort St.George,
Chennai - 600 009.
2. The Director of School Education,
Office of the Director of School Education,
DPI Campus,
College Road,
Chennai - 600 006.
3. The Joint Director of School Education (Vocational),
Office of the Joint Director of School Education (Vocational),
DPI Campus,
College Road,
Chennai - 600 006.
4. The Chief Educational Officer,
Office of the Chief Educational Officer,
Tuticorin,
Tuticorin District.



W.P.(MD)No.1892 of 2020

5. The District Educational Officer,
Office of the District Educational Officer,
Kovilpatti,
Tuticorin District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in Na.Ka.No.7011/A3/2018 dated 10.01.2019 on the file of the fourth respondent and quash the same as illegal and consequently, for a direction, directing the respondents to grant two incentives for acquiring higher qualification, i.e., B.Ed., and M.Ed., to the petitioner by way of granting ratification and to revise the petitioner's pension with all consequential benefits in accordance with the Government Order in G.O.Ms.No.240, School Education Department, dated 18.08.2010.

For Petitioner : Mr.T.Aswin Rajasimman
for Mr.T.Lajapathi Roy

For Respondents : Mr.S.Shaji Bino
Special Government Pleader

ORDER

This Writ Petition has been filed to call for the records of the impugned order in Na.Ka.No.7011/A3/2018, dated 10.01.2019 passed by the fourth respondent, quash the same and consequently, direct the respondents to grant two incentives for acquiring higher qualification, i.e., B.Ed., and M.Ed., to the petitioner by way of granting ratification and to



W.P.(MD)No.1892 of 2020

revise the petitioner's pension with all consequential benefits in accordance with the Government Order in G.O.(Ms).No.240, School Education Department, dated 18.08.2010.

2. The case of the petitioner is that the petitioner was appointed as Vocational Instructor on 21.01.1981 and his service was regularised on 01.04.1990. He was granted with Selection Grade on 10.05.2000 and Special Grade on 10.05.2010. Thereafter, he retired from his service on 31.05.2016. For the post of Vocational Instructor, the basic qualification is B.Com., alone. In addition to B.Com., Degree, the petitioner has completed B.Ed., in the year 1986 and M.Com., in the year 1998 and also completed M.Ed., in the year 1999. Under these circumstances, the Government of Tamil Nadu has issued the Government Order in G.O.(Ms).No.240, School Education Department, dated 18.08.2010, in which, the incentives were granted to Vocational Instructors. As far as the Vocational Instructor (Accountancy and Auditing) is concerned, one incentive is granted to M.Com., or B.Ed., and another incentive is granted to M.Ed., or M.Phil. The petitioner is entitled for two incentives, since he has completed M.Com.,



W.P.(MD)No.1892 of 2020

WEB COPY

B.Ed., and M.Ed. In this regard, he submitted a detailed representation on 06.08.2018 to the respondents requesting to re-fix his pension by way of granting two incentives for acquiring higher qualification in the light of the G.O.(Ms).No.240, School Education Department, dated 18.08.2010. But, the same has not been considered. Hence, he filed a Writ Petition in W.P. (MD)No.20238 of 2018. This Court, by order dated 24.09.2018, directed the respondents to consider the representation of the petitioner within a period of two months from the date of receipt of a copy of the order. Based on the same, the fourth respondent has passed the impugned order, dated 10.01.2019 rejecting his request for seeking two incentives increments. Challenging the same, the present Writ Petition.

3. The learned counsel appearing for the petitioner would submit that the fourth respondent has passed the impugned order on 10.01.2019, on the ground that, though the petitioner is entitled for two incentive increments for B.Ed., and M.Ed., as per G.O.(Ms).No.240, School Education Department, dated 18.08.2010, he has not obtained any prior permission for studying the said courses.



W.P.(MD)No.1892 of 2020

WEB COPY

4. The issue that arises in the present Writ Petition, is no longer *res integra* and the same was decided by the Hon'ble Division Bench of this Court in the case of "***The Director of School Education, DPI Campus, College Road, Chennai and others vs. U.Subbulakshmi and another*** in ***W.A.(MD)No.822 of 2021***. The relevant portion of the Hon'ble Division Bench reads thus:

*"7.The learned Writ Court, after considering the submissions of the other side, taking note of the decision in the case of **Director of Elementary Education, Chennai Vs. G.Vijayalakshmi and another** reported in (2015) 6 MLJ 315, allowed the writ petition. Aggrieved by the same, the department is before us.*

*8.After we have elaborately heard Mrs.S.Srimathy, learned Special Government Pleader appearing for the appellants and Mr.D.Shanmugaraja Sethupathi, learned Counsel for the first respondent / writ petitioner, we are of the considered view that the order passed by the learned Single Bench is perfectly justified and calls for no interference. We had an occasion to consider a similar case, though there was a slight difference in the facts of the case in **W.A.(MD)No.271 of 2021** and we have dismissed the appeal filed by the Government.*

9.The case on hand is a better case on facts. Thus for the reasons assigned by the learned Writ Court, as well as the



WEB COPY



W.P.(MD)No.1892 of 2020

reasons assigned by us and in terms of our earlier judgments referred above, we find no good grounds to interfere with the order of the learned Writ Court.

10.After we have dictated the judgment, the learned Special Government Pleader submitted that the matter has to be placed for ratification before the Court.

11.In the facts and circumstances of the case, we find no justification for doing so because no such ratification needs to be automatic because the head of the department namely, the Director of School Education has already issued proceedings dated 18.02.2019. This should be taken note of by the appellants.

12.Accordingly, this Writ Appeal stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed."

5. The learned Special Government Pleader appearing for the respondents would submit that since the petitioner has undergone the said courses without obtaining any prior permission of the Department, he is not entitled to incentive increments. Accordingly, he prayed for dismissal of the Writ Petition.



W.P.(MD)No.1892 of 2020

WEB COPY

6. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

7. The facts in the present case are not in dispute. Admittedly, the petitioner was appointed as Vocational Instructor on 21.01.1981 and his service was regularised on 01.04.1990. Further, he was granted with Selection Grade on 10.05.2000 and Special Grade on 10.05.2010 and he retired from his service on 31.05.2016. The petitioner is entitled for two incentives, namely, B.Ed., and M.Ed. However, without taking into account the judgment of the Hon'ble Division Bench of this Court, the fourth respondent mechanically passed the impugned order. However, while the very same issue came up for consideration before this Court in W.P.(MD)No.4019 of 2018, this Court, by order dated 03.01.2019, allowed the Writ Petition and quashed the impugned order and directed the respondents to sanction the incentive increments within a period eight weeks from the date of receipt of a copy of the order. The relevant portion of the said order reads as under:



W.P.(MD)No.1892 of 2020

WEB COPY

"3.In W.P(MD).No.1049 of 2012, a learned single Judge of this Court has considered the similar question and has rejected the claim of the department that if the higher education is pursued without consent of the permission of the department, the teacher was not entitled to the incentive increments for obtaining such higher qualification. Following the said Judgment, another learned single Judge of this Court in W.P.No.18086 of 2017 has held that want of permission cannot stand in the way of the petitioner being favoured with the incentive increments for having obtained higher qualifications. While doing so, paragraph 7 of the order, this Court has observed as follows:

"7.This Court in the unreported decision made in W.P(MD).No.21895 of 2015 dated 08.12.2015, while considering the claims for conferment of incentive increment for acquiring qualification and the contention that they were acquired without prior permission, held that conferment of incentive increment cannot be denied on that score. Acquiring higher education by the teacher is only for the benefit of students. In that view of the matter, the first ground of opposition stands rejected "

4. In view of the above, the sole ground on which the authorities rejected the claim of the petitioner towards



WEB COPY



W.P.(MD)No.1892 of 2020

incentive increments fails and the writ petition is liable to succeed. The impugned order of rejection is therefore, quashed. The respondents are directed to sanction the incentive increments to the petitioner for obtaining the higher qualifications namely M.A.History and B.Ed Degree from the date of acquisition of the respective qualifications. The said exercise shall be completed within 8 weeks from the date of receipt of a copy of this order.

5.Accordingly, this Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petitions are closed."

8. In view of the above, the sole ground, on which, the authorities rejected the representation of the petitioner towards incentive increments fails and the Writ Petition is liable to succeed. The impugned order of rejection passed by the fourth respondent dated 10.01.2019, is therefore, quashed. The respondents are directed to sanction two incentive increments to the petitioner for obtaining the higher qualifications, namely, B.Ed., and M.Ed., from the date of acquisition of the respective qualifications. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.



W.P.(MD)No.1892 of 2020

9. Accordingly, this Writ Petition is allowed. No costs.

WEB COPY

07.12.2022

Index : Yes / No

Speaking Order : Yes / No

vji



W.P.(MD)No.1892 of 2020

WEB COPY

To

1. The Principal Secretary to the Government,
The State of Tamil Nadu,
Department of School Education,
Fort St.George,
Chennai - 600 009.
2. The Director of School Education,
Office of the Director of School Education,
DPI Campus,
College Road,
Chennai - 600 006.
3. The Joint Director of School Education (Vocational),
Office of the Joint Director of School Education (Vocational),
DPI Campus,
College Road,
Chennai - 600 006.
4. The Chief Educational Officer,
Office of the Chief Educational Officer,
Tuticorin,
Tuticorin District.
5. The District Educational Officer,
Office of the District Educational Officer,
Kovilpatti,
Tuticorin District.



WEB COPY



W.P.(MD)No.1892 of 2020

M.DHANDAPANI,J.

vji

W.P.(MD)No.1892 of 2020

07.12.2022