



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.06.2022

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P. (MD) .No.7329 of 2021

WEB COPY

1.C.Beenu Mahisha

2.V.Jameela Jona Park

3.M.Lily Selvakumari

4.P.Jayanthi Rani

5.S.David Raja

6.D.Helen Mercy

7.A.Divya Prabha

... Petitioners

Vs.

1.The Chief Educational Officer,
Thanjavur,
Thanjavur District.

2.The District Educational Officer,
Thanjavur,
Thanjavur District.

3.The Correspondent,
St.Peter's Higher Secondary School,
Thanjavur - 613 009,
Thanjavur District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to impugned proceedings in O.Mu.No:5278/A4/2020 dated 12.03.2021 of the second respondent herein and quash the same and consequently direct the respondents herein to award incentive increments to the petitioners for their M.Phil, M.A., M.Ed and B.Ed degree with effect from the date of passing of the said degrees / date of appointment to the petitioners herein with attended benefits.

For Petitioners : Mr.T.Pon Ramkumar

For R-1 and R-2 : Mr.A.Kannan,
Additional Government Pleader.



ORDER

The petitioners herein, have possessed higher education during their service under the third respondent herein and they aspired to avail incentive increment for their higher education, in terms of the Regulations governing them. When the third respondent had sought for the approval for registration of the petitioners' higher qualification for the purpose of granting incentive increment, the same came to be rejected by the second respondent herein, stating that, the petitioners had not obtained prior permission of the authorities, for undergoing higher education.

2. The petitioners herein intend to avail incentive increment for having possessed higher educational qualification and the purpose for which the ratification of their higher degree was sought for was to make the petitioners eligible for availing the said increment.

3. This Court, in various writ petitions have held that claims for conferment of incentive increment for acquiring higher educational qualifications cannot be denied on the ground that such higher qualifications were acquired without prior permission. One such order of this Court passed in the case of **J.Tamilrajan vs. Department of School Education and others** passed in W.P.(MD) No.4019 of 2018, reads thus:-

"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



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

4. By applying the ratio held in the aforesaid decision as well as various other decisions, on the same line, it can be said that the petitioners herein would be entitled for incentive increment for having possessed higher educational qualification, even though they had not obtained prior permission of the authorities for having undergone the course for such higher education.

5. It is brought to the notice of this Court that the proposal sent by the third respondent school has been returned through the impugned order dated 12.03.2021.

6. In view of the above observations, the petitioners herein would be entitled for award of incentive increment. Accordingly, the impugned order dated 12.03.2021 is quashed and consequently, there shall be a direction to the second respondent herein to award incentive increment for M.Phil, M.A., M.Ed and B.Ed degree with effect from the date of passing of the said degrees to the petitioners herein along with attendant benefits, by passing appropriate orders within a period of four (4) weeks from the date of receipt of a copy of this order.

7. This Writ Petition stands allowed accordingly. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

Lm



To

1.The Chief Educational Officer,
Thanjavur,
Thanjavur District.

2.The District Educational Officer,
Thanjavur,
Thanjavur District.

+1 CC to M/s.T.PON RAMKUMAR, Advocate (SR-24802[F] dated 09/06/2022)

+1 CC to M/s.SPL.GP (SR-25172[F] dated 10/06/2022)

W.P. (MD) .No.7329 of 2021
09.06.2022

RD(29.06.2022) 4P 5C