



W.P.(MD).No.11603 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD).No.11603 of 2021

and

W.M.P.(MD).Nos.9113 and 9114 of 2021

M.Kumar

... Petitioner

Vs.

1.The Chief Education Officer,
O/o. the Chief Education Officer,
Tirunelveli District – 627 001.

2.The District Educational Officer,
O/o. the District Educational Officer,
Vallioor,
Tirunelveli District – 627 003.

3.Amir Jamal Higher Secondary School,
Represented by the Correspondent,
Idayankulam,
Nanguneri Taluk,
Tirunelveli District – 627 502.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Oo.Mu.No.1282/A3/2021 dated 27.04.2021 on the file of the respondent No.2 and quash the same as illegal and consequently directing the respondent No.2 to sanction incentive increment to the petitioner for acquiring M.Phil Degree qualification forthwith.



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For Petitioner : Mr.I.Pinaygash
For R-1 and R-2 : Mr.S.Shaji Bino,
Special Government Pleader.

ORDER

The authority of the District Educational Officer to return the application seeking for grant of incentive increment or to reject the same on the ground that the concerned teacher had not obtained prior permission for acquiring higher educational qualification has already been dealt by this Court in various decisions by holding that such prior permission is not mandatory. In all these decisions, the concerned District Educational Officers were directed to sanction the incentive increment to the teachers for having acquired the higher educational qualifications.

2. In one such decision passed by the Hon'ble Division Bench of this Court in the case of *the Director of Elementary Education, College Road, Chennai-600 006 and others Vs. G.Vijayalakshmi and others*, reported in *(2015) 6 MLJ 315*, such a proposition was upheld in the following manner:

“39. Merely because, the petitioner has not obtained sanction of leave from the Director of Elementary Education, Chennai, it cannot be said that there is a violation of the provisions of the Tamil



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Nadu Recognised Private Schools (Regulation) Act and the Rules framed thereunder and in particular, the Code of Conduct framed in Annexure-II, in terms of Section 21 of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, read with Rule 16 of the Rules framed thereunder. Conditions imposed in the order, dated 30.05.2014, of the Director of Elementary Education, Chennai, can at best be made applicable, only to the extent, within the statutory provisions, to which, the recognised aided schools and the staff therein, are bound to follow. At the risk of repetition, Government orders issued are amendments to rule 24A of the Government Servant Conduct Rules, and not to Tamil Nadu Recognised Private Schools (Regulation) Act. 1973.”

3. The aforesaid ratio has been subsequently followed in various batch of Writ Petitions by this Court by holding that the educational authorities do not have the authority to insist for a prior permission to acquire the higher educational qualification for the purpose of grant of incentive increment.

4. In the instant case, the petitioner's request for grant of incentive increment has been rejected on the ground that he had not obtained the prior permission for acquiring the higher educational qualification. Such reasoning adopted by the respondents is opposed to the aforesaid decision of the Hon'ble Division Bench and therefore, cannot be sustained. In view of the settled



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proposition of law that such prior permission of the educational authorities for acquiring higher educational qualification is not required, it would be appropriate to grant a positive direction to the respondents to grant incentive increment to the petitioner.

5. Accordingly, the impugned order, dated 27.04.2021, on the file of the second respondent is quashed. Consequently, there shall be a direction to the District Educational Officer / the second respondent herein to pass appropriate orders, granting incentive increment to the petitioner for acquiring higher educational qualification of M.Phil. degree with effect from June 2007, within a period of four (4) weeks from the date of receipt of a copy of this order.

6. This Writ Petition stands allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

28.07.2022

Index : Yes / No
Internet : Yes/ No
Lm



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To

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O/o. the Chief Education Officer,
Tirunelveli District – 627 001.

- 2.The District Educational Officer,
O/o. the District Educational Officer,
Vallioor,
Tirunelveli District – 627 003.



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M.S.RAMESH, J.

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