



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.14336 of 2019

WEB COPY

S.Philipraj

... Petitioner

vs.

1.The Government of Tamilnadu
rep.by its Secretary
Department of Education
St.George Fort
Chennai-600 009

2.The Director of School Education
College Road
Chennai-9

3.The Chief Educational Officer
Tirunelveli District, Tirunelveli

4.The Block Educational Officer
Tenkasi, Tirunelveli District

5.The Correspondent
R.C.Middle School
Sinthamani, Vasudevanallur
Tirunelveli District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records relating to the impugned order of the 4th respondent passed in Na.Ka.No.0030/A1/2019, dated 03.04.2019 and quash the same and consequently direct the respondent to disburse double increments to the petitioner for acquiring higher qualification of M.A. (History) with effect from 29.05.2018.

For Petitioner : Mr.S.Chellapandian

For Respondents : Mr.G.V.Vairam Santhosh

Additional Government Pleader for R1 to R4

O R D E R

The order dated, 03.04.2019, passed by the fourth respondent, declining the request for grant of incentive increment, is under challenge in this writ petition.



2. The petitioner is working as B.T.Teacher in the fifth respondent - Minority Aided School. He acquired additional qualification and submitted an application for grant of incentive increment as per the Government Order. However, the fourth respondent rejected the application on the ground that the petitioner is not eligible for such incentive increment. The basis for rejection of the petitioner's claim has been elaborately stated in the counter affidavit filed by the fourth respondent, which reads as follows:

"8.Regarding the averment made in Para 5 and 6 of the affidavit, it is submitted after completion of one month child psychology training from 02.05.2003 to 30.05.2003 the appointment of the petitioner as secondary grade teacher was approved by the District Elementary Educational Officer, Tirunelveli, in his proceedings Ni Mu No.11717/A4/2003 dated 28.07.2003 with effect from 02.06.2003 with higher qualification and incentive increment scheme is not applicable to him. As per order dated 29.06.2001 to the Hon'ble court made in WA No.991-998/98 and batch cases and as per G.O.MS.No.155, school education, dated 03.10.2002, the petitioner's appointment was affirmed from 02.06.2003 with the above condition. Hence, he is not entitled to get incentive increment for acquiring higher qualification M.A.(History) degree from Annamalai University on 29.05.2018.

9.Regarding the averment made in para 7 and 8 of the affidavit, it is submitted that averments of the petitioner are not correct. As per G.O.MS.No.42, Education, dated 10.01.1969, a secondary grade teachers means, who possess a secondary grade teacher training certificate qualification further those who got first incentive increment for B.Ed., shall be eligible for second incentive increment for M.A. The petitioner has not obtained first incentive for B.E.d. Since it is basic training qualification. Hence the petitioner could not claim incentive increment for MA (History) further as new G.O.MS.No.539, Education, dated 21.04.1986 and G.O.MS.No.155, School Education, dated 03.10.2002 incentive increment scheme is not applicable to the petitioner. The petitioner has accepted that he is working in a minority School and hence has was not appointed by following communal reservation roster G.O.Ms.No.83, School Education, dated 28.04.2017 speaks ahrt the appointment of



SC/ST candidates in the vacancies reserved for SC/ST candidates. Hence, it is obvious that the orders in G.O.MS.No.83, School Education dated 28.04.2017 are not applicable to the petitioner. Hence the refusal of sanction incentive increment to the petitioner for MA (History) degree by the fourth respondent to his proceedings Naka No.0030/A1/2019 dated 03.04.2019 on the above said reasons is sustainable in law and it is valid and legal."

3. When the scheme of incentive increment is not applicable for the Teachers working in Minority Institutions and more so, it was imposed as a condition for the petitioner at the time of his appointment itself, there is no reason to hold that the petitioner is eligible for incentive increment. The fourth respondent, in his counter affidavit, has clearly stated that the appointment of the petitioner was approved vide proceedings dated 08.07.2003 with a specific condition that he is not eligible for incentive increment for higher qualification and the said scheme is not applicable to him. Hence, when the appointment of the petitioner itself is approved based on the said condition, there is no reason for him to claim incentive increment after accepting the offer of appointment and therefore, now the petitioner cannot turn around and seek such benefits in view of the conditions agreed by him. Thus, there is no infirmity as such in respect of the impugned order passed by the fourth respondent.

4. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CRL SIDE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To:

1.The Secretary,
Department of Education,
Government of Tamilnadu,
St.George Fort,
Chennai-600 009.



2.The Director of School Education,
College Road,
Chennai-9.

3.The Chief Educational Officer,
Tirunelveli District, Tirunelveli.

4.The Block Educational Officer,
Tenkasi, Tirunelveli District.

+1 CC to M/s.S.CHELLA PANDIAN, Advocate (SR-12371[F] dated
16/03/2022)

+1 CC to M/s.SPL GP (SR-12462[F] dated 16/03/2022)

W.P. (MD) No.14336 of 2019
15.03.2022

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