



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.11.2022

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.4973 of 2019

and

W.M.P(MD)Nos.3945 & 9613 of 2019

R.Rajmohan

... Petitioner

v.

- 1.The State of Tamil Nadu,
Rep.by its Secretary,
Department of School Education,
Secretariat, Fort St.George,
Chennai – 600 009.
- 2.The Director of School Education,
College Road, Nungambakkam,
Chennai – 600 006.
- 3.The Regional Accounts Officer (Audit),
School Education Department,
Madurai Region, Madurai.
- 4.The Chief Educational Officer,
Dindigul District, Dindigul.
- 5.The Headmaster,
Government Higher Secondary School,
Nilakottai – 624 208,
Dindigul District.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the third respondent in Na.ka No. 1123/A9/2018 dated 27.03.2018 and the consequential order of recovery passed by the fifth respondent in Na.Ka.No.163/2018 dated 02.11.2018 and quash the same as illegal and consequently direct the respondents to sanction incentive increments for possessing M.Phil in Physical Education to the petitioner in the light of the G.O Ms.No.324 Education, Science and Technology Department dated 25.04.1995.

For Petitioner : Mr.J.Lawrance

For Respondents : Mr.Sathees Kumar

ORDER

The petitioner was appointed as Physical Education Teacher in the year 1998. The qualification prescribed for the said post was possession of Bachelor of Physical Education degree (BPES). However, the petitioner was possessing higher degrees of Master of Physical Education Degree (MPES) and M.Phil in Physical Education. He was initially awarded one incentive increment for MPES in the year 1998 itself. Subsequently, in the year 2012, he was awarded an additional incentive increment for possessing M.Phil in Physical Education. The said incentive was given with effect from the petitioner's date of appointment ie., 17.09.1998. By the impugned order, the petitioner was



informed that he could not have been given the benefit of incentive increment with effect from 17.03.1998 and that he could have been given the said benefit only with effect from 13.10.2016. The said order was issued pursuant to a audit objection. Challenging the same, this writ petition has been filed.

2.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this court to set aside the impugned order and grant relief as sought for. Relying on the various G.Os, he submitted that both the incentive increments were rightly granted and that the issue need not be revisited at this point of time. He relied on the order dated 12.02.2018 made in ***WP(MD)No.290 of 2018 (T.P.Thiraviyaraj v. the Director of School Education)***.

3.The respondents have filed counter affidavit and the learned Additional Government Pleader took me through their contents. He submitted that the impugned order does not warrant any interference.

4.I carefully considered the rival contentions and went through the materials on record. The scheme for incentive payment to teachers dates back to the year 1969. G.O Ms.No.42 Education Department dated 10.01.1969 provides for awarding incentive increments to those possessing or acquiring higher qualification specified in the Annexure. G.O Ms.No.95



Education Department dated 21.01.1980 pertains to Physical Directors/Physical Education Teachers Grade I & II. Grant of advance increments was directed for possession of higher qualifications indicated in the Annexure in the G.O itself. The said G.O reads as under :

**GOVERNMENT OF TAMIL NADU
ABSTRACT**

Education - Physical Directors/Physical Education Teachers
Grade I and II - Sanction of incentive increments for possessing
High qualifications - Revised orders - Issued.

EDUCATION DEPARTMENT

G.O.Ms.No.95

Dated: 21.1.1980

Read: 1. G.O.Ms.No.42 Education dated 10.1.69.

2. G.O.Ms.No.1032 Education dated 22.6.71.

3. From the Director of School Education, letter
Rc.No.223700/12/74 dated 22.11.74.

4. From the Director of School Education, letter
Rc.No.127151 K3/74 dated 26.7.78.

ORDER:

In partial modification of the orders issued in G.O.Ms.No.42 Education dated 10.1.69 and G.O.Ms.No.1032 Education dated 22.6.71 so far as they relate to sanction of advance increments to Physical Directors and Physical Education Teachers Grade I and II, the Government direct that advance increments be granted to the Physical Directors/Directress and Physical Education Teachers Grade I and II for Higher qualifications acquired by them as indicated below:

- | | | |
|--|--------------------------------------|--|
| 1. Physical Director/
Directress working in
High School and
Higher Sec.Schools. | Rs.450-20-
590-25-740
-30-800, | M.P.Ed. Degree of a Univer-
sity in this State or Degree of
other universities recognised
as equivalent thereto. |
| 2. Physical Education
Teachers Grade I
and II working in
High School. | Rs.350-10-
420-15-600. | B.T. or B.Ed. or B.P.Ed.
Degree of a University in
this State, or Degree of
others universities recog-
nised as equivalent thereto
or Diploma in Physical
Education.
M.P.Ed. (2 additional in-
crements) |

3. This order issues with the concurrence of Finance Department
vide its U.O.No.63951 F.II/79-1 dt.30.7.79.

(BY ORDER OF THE GOVERNOR)

F.C.T. Prabhakar,
Commissioner and Secretary to Government.



The learned Additional Government Pleader for the respondents pointed out that the advance increments have been directed to be paid right from the year 1969 only for acquiring or possessing higher qualifications mentioned in the relevant G.Os. In G.O Ms.No.95 dated 21.01.1980, the higher qualifications mentioned are M.P.Ed/B.T or B.Ed or B.P.Ed or Diploma in Physical Education. G.O. Ms.No.324 Education, Science and Technology Department (E2) dated 25.04.1995 is clarificatory in nature. It clarifies that in respect of teachers in Physical Education they are eligible for the incentive for higher qualification only in Physical Education. Only vide G.O (Ms) No.177 dated 13.10.2016, M.Phil in physical education was recognized as yet another higher qualification. Till the passing of G.O dated 13.10.2016, M.Phil was never recognized as higher qualification.

5.I therefore have no hesitation in coming to the conclusion that awarding of incentive increment in favour of the petitioner for possessing M.Phil prior to 13.10.2016 is clearly incorrect. I may incidentally observe that G.O Ms.No.42 dated 10.09.1969 recites that the Government accepted in principle that incentive payments and awards should be given to the teachers in schools who acquire higher educational qualifications. Only in the Annexure, the expression "possesses" finds place. In other words, the original object of the g.o was that the teachers who enter service with lower degrees



must be encouraged to acquire higher qualifications and there must be provision of incentive therefor. The petitioner after acquiring higher qualification, namely, MPES and M.Phil joined the service. I fail to understand as to how incentive increments should be given to the person who was already in possession of higher qualification. Be that as it may, the G.O issued by the Government provides for such grant. This court ought not to interfere in the matter. But, I am more than satisfied that the petitioner could not have been given incentive increment for possessing M.Phil prior to the passing of G.O Ms.No.177 dated 13.10.2016. The audit objections were rightly raised. The impugned order therefore does not warrant any interference. The petitioner is aged about only 52 years and therefore, the excess payment made to him can be recovered easily in convenient installments.

6.The writ petition stands dismissed. No costs. Connected miscellaneous petitions are closed.

16.11.2022

Index : Yes / No
Internet : Yes/ No
skm



To

1. The Secretary, Department of School Education,
Secretariat, Fort St. George, Chennai – 600 009.
2. The Director of School Education,
College Road, Nungambakkam, Chennai – 600 006.
3. The Regional Accounts Officer (Audit),
School Education Department, Madurai Region, Madurai.
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G.R.SWAMINATHAN, J.

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