



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.06.2022

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P. (MD) .No.14015 of 2021

and

W.M.P. (MD) .No.11010 of 2021

WEB COPY

B.Kalpana

... Petitioner

Vs.

1.The Joint Director of School Education (Higher Secondary),
College Road, Chennai - 6.

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

3.The District Educational Officer,
Thanjavur,
Thanjavur District.

4.The Secretary,
Kalyana Sundaram Higher Secondary School,
Thanjavur - 613 009,
Thanjavur District.

...Respondents

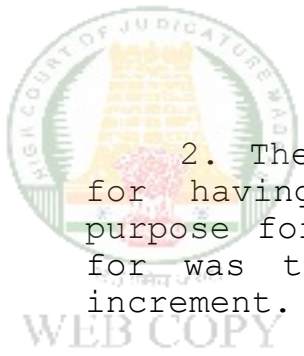
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to impugned order in O.Mu.No.2671/A3/2018 dated 18.07.2018 of the third respondent herein and the impugned order in O.Mu.No.43162/D1/E4/2019 dated 12.11.2019 of the first respondent herein and quash the same and consequently direct the respondents herein to award incentive increment for B.Ed degree with effect from the date of passing of the said degree to the petitioner herein with attended benefits.

For Petitioner : Mr.T.Pon Ramkumar

For R-1 to R-3 : Mr.A.Kannan,
Additional Government Pleader.

ORDER

The petitioner herein, has possessed higher education during her service under the fourth respondent herein and she aspired to avail incentive increment for her higher education, in terms of the Regulations governing them. When the fourth respondent had sought for the approval for registration of the petitioner's higher qualification for the purpose of granting incentive increment, the same came to be rejected by the first and third respondents herein, stating that, the petitioner had not obtained prior permission of the authorities, for undergoing higher education.



2. The petitioner herein intends to avail incentive increment for having possessed higher educational qualification and the purpose for which the ratification of her higher degree was sought for was to make the petitioner 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 opposition stands rejected"

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 petitioner herein would be entitled for incentive increment for having possessed higher educational qualification, even though she had not obtained prior permission of the authorities for having undergone the course for such higher education.

5. In the light of the above observations, the impugned orders dated 18.07.2018 and 12.11.2019 are quashed and consequently, there shall be a direction to the third respondent herein to award incentive increment for B.Ed degree with effect from the date of passing of the said degree to the petitioner 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.

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

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

Lm

To

1.The Joint Director of School Education (Higher Secondary),
College Road, Chennai - 6.

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

3.The District Educational Officer,
Thanjavur, Thanjavur District.

+1 CC to M/s.T.PON RAMKUMAR, Advocate (SR-24801[F] dated 09/06/2022)

+1 CC to M/s.SPL.GP (SR-25071[F] dated 10/06/2022)

W.P. (MD) .No.14015 of 2021
09.06.2022

RD(29.06.2022) 3P 6C