



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2022

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.[MD]No.15681 of 2021

I.Selvakumari
BT Assistant,
Mary Sargent Girls' Higher Secondary School,
Palayamkottai,
Tirunelveli District. ... Petitioner

Vs.

- 1.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
- 2.The District Educational Officer,
Tirunelveli, Tirunelveli District.
- 3.The Correspondent,
Mary Sargent Girls' Higher Secondary School,
Palayamkottai,
Tirunelveli District. ... Respondents

PRAYER : This Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to impugned order in Na.Ka.No.2238/A3/2019 dated 09.05.2019 of the second respondent herein and quash the same in respect of the petitioner alone and consequently, direct the respondents 1 and 2 herein to award annual increments, incentive, surrender leave benefits and other attended benefits to the petitioner from the date of petitioner's appointments, namely 26.08.2017 with all attendant benefits including pay fixation and allowance.

For Petitioner : Mr.T.Pon Ramkumar

For R1 and R2 : Mr.G.V.Vairamsanthosh
Additional Government Pleader

For R3 : Mr.G.Prabhu Rajadurai



O R D E R

This writ petition has been filed challenging the impugned order passed by the second respondent, dated 09.05.2019, whereby the annual increments, incentive increments, surrender leave benefits and other attendant benefits were denied to the petitioner holding that the petitioner has not completed the Teacher Eligibility Test (TET).

2. The learned counsel appearing for the petitioner submitted that the petitioner is working in the Minority Institution. The Teachers working in the Minority Institution were exempted from TET qualification. Though the issue in the writ petition has already been settled by this Court in a number of judgments, the respondents failed to confer all service benefits to the petitioner. In this regard, he relied on the judgment in W.A(MD) No.1862 of 2021 dated 28.09.2021, wherein the First Division Bench of this Court, has held as follows:-

It is submitted that the appeal arises out of an order extending certain benefits to the first respondent herein. The principal grievance of the appellants is that the first respondent/writ petitioner did not qualify in the TET and as such, the benefit sought cannot be extended to such a person.

2.It is fairly submitted on behalf of the appellants that the issue is covered by a previous Division Bench judgment in a batch of matters and the state has preferred a Special Leave Petition.

3.Since the issue is already covered by a Division Bench Judgment, no question arises of revisiting the same. In the event the SLP succeeds and the relevant order is set aside, that will govern all matters.

3.In spite of the settled legal position, the learned Additional Government Pleader appearing for the respondents vehemently opposed the grievance of the petitioner by referring the averments set out in paragraphs No.6 to 8 in the Counter affidavit and also pending SLP.

4.Since the issue in the writ petition has already been settled by this Court in a number of judgments, this Court is of the view that the petitioner is entitled to incentive increment. Therefore, the issue is no more *res integra*. However, in the event SLP succeeds and the relevant order is set aside, that will govern all matters.

5.Accordingly, this Writ Petition is allowed and the impugned order passed by the second respondent dated 09.05.2019 is quashed and the respondents 1 and 2 are directed to confer all other



service benefits such as annual increments, incentives, surrender leave benefits and other attendant benefits to the petitioner from the date of their appointment, within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

cp

To:-

- 1.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
- 2.The District Educational Officer,
Tirunelveli, Tirunelveli District.

+1 CC to Mr.T.PONRAMKUMAR, Advocate SR.No. 16123
+1 CC to Mr. Special Government Pleader, SR.No. 16358

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nsn(CO)
TR(27.04.2022) 3P 5C