



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.04.2022

Delivered On: 02.06.2022

CORAM:

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P. (MD) Nos.6837, 6838, 5893 to 5897 & 9815 of 2018 and 22271 to 22277 of 2017

and W.M.P. (MD) .Nos.3551 to 3556, 3681, 5767 to 5776, 6566 to 6569, 7808,7809 to 7812, 9010 & 9011 of 2018 and 18575 to 18581 of 2017

R.Latha Banu	... Petitioner in WP(MD)No.6837/2018
G.Shanthi	...Petitioner in WP(MD)No.6838/2018
G.Surendranath	... Petitioner in WP(MD)No.5893/ 2018
B.Alli Rani	... Petitioner in WP(MD)No.5894/ 2018
B.Nirmala	... Petitioner in WP(MD)No.5895/ 2018
S.Vijayakumari	... Petitioner in WP(MD)No. 5896/ 2018
J.Paulin	... Petitioner in WP(MD)No. 5897/ 2018
C.Usha Rani	... Petitioner in WP(MD)No. 9815/ 2018
A.Amutha	... Petitioner in WP(MD)No. 22271/ 2017
N.Mala	... Petitioner in WP(MD)No. 22272/ 2017
S.Ambika	... Petitioner in WP(MD)No. 22273/ 2017
N.Antony Francis	... Petitioner in WP(MD)No. 22274/ 2017
E.Murali	... Petitioner in WP(MD)No. 22275/ 2017
D.Umaselvi	... Petitioner in WP(MD)No. 22276/ 2017
R.Thulasi	... Petitioner in WP(MD)No. 22277/ 2017
	Vs.

- 1.The State of Tamil Nadu
Rep. by its Secretary to Government,
School Education Department,
Secretariat, Fort. St. George,
Chennai - 9.
- 2.The Director of Elementary Education,
DPI Campus, College Road, Chennai - 600 006.
- 3.The District Elementary Education,
Thanjavur District,
Thanjavur.

..Respondents 1 to 3 in
WP(MD) .Nos.6837,6838,5893 to
5897 & 9815 of 2018 and
WP(MD)No.22271 to 22277 of 2017



4.The Additional Assistant Elementary Education Officer,
Kumbakonam,
Thanjavur District.

..4th Respondent in WP(MD) .No.6837/2018

WEB COPY

4.The Assistant Elementary Education Officer,
Kumbakonam,
Thanjavur District.

..4th Respondent in WP(MD)No.6838/2018

4.The Assistant Elementary Educational Officer,
Papanasam, Thanjavur

..4th Respondent in WP(MD)No. 5893/ 2018

4.The Assistant Elementary Educational Officer,
Thanjavur Municipality, Thanjavur

..4th Respondent in WP(MD)No. 5894/ 2018

3.The District Elementary Educational Officer,
Ramanathapuram District,
Ramanathapuram.

4.The Assistant Elementary Educational Officer,
Thiruvadanai, Ramanathapuram District.

..3rd & 4th Respondent in WP(MD)No. 5895/ 2018

4.The Assistant Elementary Educational Officer,
Thanjavur Municipality, Thanjavur

..4th Respondent in WP(MD)No. 5896/ 2018

4.The Assistant Elementary Educational Officer,
Thanjavur Municipality, Thanjavur

..4th Respondent in WP(MD)No. 5897/ 2018

4. The Additional Assistant Elementary Educational Officer,
Kumbakonam, Thanjavur Dist

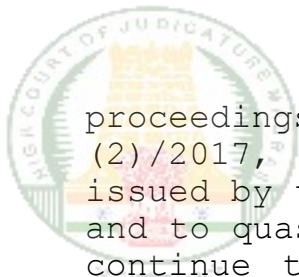
..4th Respondent in WP(MD)No. 9815/ 2018

4.The Additional Assistant Elementary,
Educational Officer,
Thanjavur Rural Range,
Thanjavur District.

.. 4th Respondentin WP(MD)Nos. 22271 to
22277/2017

Prayer in WP(MD)No. 6837 of 2018 : Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned

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proceedings issued by the 1st respondent in Letter No.3702/Tho.Kal(2)/2017, dated 10.10.2017 and the consequential order of recovery issued by the 4th respondent in Na.Ka.No.30/A4/2018, dated 19.01.2018 and to quash the same and consequently, directing the respondents to continue to pay incentive increment to the petitioner for B.Ed., Degree with revision scale of pay with reference to recommendations of VII Pay Commission.

Prayer in WP(MD)No. 6838 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 1st Respondent in Letter No.3702/Tho.Kal(2)/2017 dated 10/10/2017 and the consequential order of recovery issued by the 4th respondent in Na.ka.No.31/A3/2018 dated 19/01/2018 and to quash the same and consequently directing the Respondents to continue to pay incentive increment to the Petitioner for B.Ed degree with revision scale of pay with reference to recommendations of VII th pay commission .

Prayer in WP(MD)No. 5893 of 2018 :

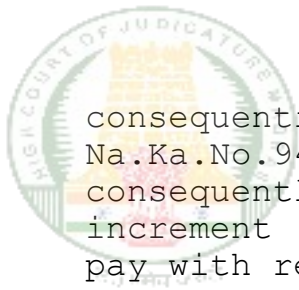
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus to call for the records relating to the impugned proceedings issued by the 1st Respondent in Letter No.3702/Tho.Kal(2)/2017 dated 10/10/2017 and the consequential order of recovery issued by the 4th respondent in Na.Ka.No.29/A2/2018 dated 10/01/2018 and to quash the same and consequently directing the Respondents to continue to pay incentive increment to the Petitioner for B.Ed degree with revision scale of pay with reference to recommendations of VIIth pay commission.

Prayer in WP(MD)No. 5894 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus to call for the records relating to the impugned proceedings issued by the 1st Respondent in Letter No.3702/Tho.Kal(2)/2017 dated 10/10/2017 and the consequential order of recovery issued by the 4th respondent in Na.Ka.No.952/A1/A2/2018 dated 27.11.2017 and to quash the same and consequently directing the Respondents to continue to pay incentive increment to the Petitioner for B.Ed degree with revision scale of pay with reference to recommendations of VIIth pay commission.

Prayer in WP(MD)No. 5895 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 1st respondent in Letter.No.3702/Tho.Kal(2)/2017 dated 10/10/2017 and the



consequential order of recovery issued by the 4th respondent in Na.Ka.No.941/A1/2017 dated 21/12/2017 and to quash the same and consequently directing the respondents to continue to pay incentive increment to the Petitioner for B.Ed degree with revision scale of pay with reference to recommendations of VIIth pay Commission .

Prayer in WP(MD)No. 5896 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus to call for the records relating to the impugned proceedings issued by the 1st Respondent in Letter No.3702/Tho.Ka1(2)/2017 dated 10/10/2017 and the consequential order of recovery issued by the 4th respondent in Na.Ka.No.952/A1/2018 dated 27/11/2017 and to quash the same and consequently directing the Respondents to continue to pay incentive increment to the Petitioner for B.Ed degree with revision scale of pay with reference to recommendations of VIIth pay commission.

Prayer in WP(MD)No. 5897 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus to call for the records relating to the impugned proceedings issued by the 1st Respondent in Letter No.3702/Tho.Ka1(2)/2017 dated 10/10/2017 and the consequential order of recovery issued by the 4th respondent in Na.Ka.No.952/A1/A2/2017 dated 27/11/2017 and to quash the same and consequently directing the Respondents to continue to pay incentive increment to the Petitioner for B.Ed degree with revision scale of pay with reference to recommendations of VIIth pay commission.

Prayer in WP(MD)No. 9815 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 1st respondent in Letter No.3702/Tho.Ka1(2)/2017 dated 10/10/2017 and the consequential order of recovery issued by the 4th Respondent in Na.Ka.No.30/A4/2018 dated 19/01/2018 and to quash the same and consequently directing the Respondents to continue to pay incentive increment to the Petitioner for B.Ed degree with revision scale of pay with reference to recommendation..

Prayer in WP(MD)No. 22271 of 2017 :

Writ Petition is 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 the impugned proceedings issued by the 4th respondent in Na.Ka.No.464/A1/2017 dated 22.11.2017 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.



Prayer in WP(MD)No. 22272 of 2017 :

Writ Petition is 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 the impugned Proceedings issued by the 4th respondent in Na.Ka.No.1484/A3/2017 dated 27.11.2017 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD)No. 22273 of 2017 :

Writ Petition is 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 the impugned proceedings issued by the 4th respondent in Na.Ka.No.1484/A2/2017 dated 27.11.2017 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD)No. 22274 of 2017 :

Writ Petition is 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 the impugned Proceedings issued by the 4th respondent in Na.Ka.No.1484/A2/2017 dated 27.11.2017 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

Prayer in WP(MD)No. 22275 of 2017,22276 of 2017 & 22277/2017 :

Writ Petition is 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 the impugned proceedings issued by the 4th respondent in Na.Ka.No.1484/A3/2017 dated 27.11.2017 and to quash the same and consequently directing the respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

In all writ petitions

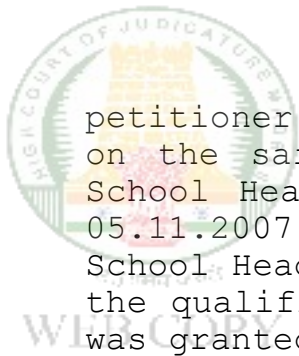
For Petitioner : Mr.C.Santhosh Kumar

For Respondent : Mr.V.Om Prakash
Government Advocate

COMMON ORDER

The issues involved in these writ petitions are one and the same, hence they are taken up together, heard and disposed of by this common order.

2. The brief facts of the case as stated in W.P.(MD).No.6837 of 2018 is that the writ petitioner was appointed as Secondary Grade Teacher in Elementary Education Department on 19.08.1988. The



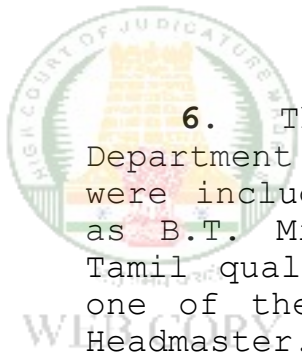
petitioner acquired qualification of B.Lit., in the year 2002 based on the said qualification the petitioner was promoted as Primary School Headmaster on 30.12.2004, then promoted as Tamil Pandit on 05.11.2007. Subsequently, the petitioner was promoted as Middle School Headmaster on 02.06.2008. Thereafter, the petitioner acquired the qualification of B.Ed., degree in the year 2010. The petitioner was granted incentive increment for having acquired B.Ed., Degree as per G.O.Ms.No.42, Education Department, dated 10.01.1969. Thereafter the first respondent has issued a Government Letter dated 10.10.2017 by stating that the Teacher appointed as Tamil Pandit based on B.Lit., qualification, thereafter, promoted to the post of Middle School Headmaster is not entitled for any incentive increment for qualifying B.Ed. Degree. The first respondent's order was directed to be implemented by the second respondent vide his communication dated 08.11.2017. Consequently, the fourth respondent issued order of recovery, dated 19.01.2018, thereby cancelling the order of sanctioning incentive increment for acquiring B.Ed., degree and also the second respondent, dated 08.11.2017, thereby implemented the first respondent's order.

3. The contention of the petitioner is that the Secondary Grade Teacher on acquiring B.Lit., degree is eligible to be promoted as Primary School Headmaster or Tamil Pandit or B.T. Assistant (Tamil) as well as to the post of Middle School Headmaster. Whenever B.Ed. Degree is acquired, it is considered as additional qualification for the Teacher who were promoted based on the B.Lit., degree and he is eligible for the grant of incentive increment. As per the orders passed by the Government in G.O.Ms.No.107, dated 20.01.1976, it is directed that the Tamil Pandit Grade - I, who is not required to possess B.T. for initial appointment and Grade - II Tamil Pandit, to be allowed two increments as incentive increments for acquiring qualification of B.Lit., and B.Ed., degree. Accordingly, the Tamil Pandit is eligible for grant of incentive increment for acquiring qualification of B.Ed. The Secondary Grade Teacher qualified with B.Lit., is also eligible for promotion to the post of Middle School Headmaster as per G.O.Ms.No.1297, dated 21.07.1979, in which event the B.Ed., qualification acquired by the petitioner working in the post of Middle School Headmaster become an additional qualification, thereby he was made eligible for incentive increment on par with the Tamil Pandit. As clarified by the proceedings of Director of Elementary Education issued in O.Mu.No.15623/B19/90/ dated 07.06.1991. Accordingly, when B.Lit., being eligible to the promotion to the post of Tamil Pandit as well as to the post of Middle School Headmaster, a Teacher promoted to the post of Tamil Pandit or Middle School Headmaster acquired B.Ed., degree, which is additional qualification, is granted incentive increment for the same. However, the respondent vide proceedings, dated 10.10.2017, has declined to grant incentive increment for acquiring B.Ed., Degree. Aggrieved over the same the petitioner has filed this writ petition.



4. The respondents have filed counter stating that the petitioner entered into the service as Secondary Grade Teacher on 19.08.1988, thereafter, promoted as Primary School Headmaster, then promoted as B.T. Assistant Tamil on the basis of the B.Lit. Tamil qualification. The petitioner, thereafter, was promoted as Middle School Headmaster with effect from 02.06.2008. The petitioner had acquired B.Ed., Degree qualification in the year 2010. On the basis of the representation, the petitioner was sanctioned incentive increments for B.Ed., and M.A. Degree qualifications with effect from 12.12.2010 vide proceedings of the fourth respondent in R.C.No.1417/a2/2011, dated 18.01.2012. The Government have issued a clarification letter No.3702/EE1(2)2017, dated 10.10.2017, to the effect that the Middle School Headmasters are not entitled for incentive increment for B.Ed., Degree qualification, if they acquire such qualification after their promotion to the post of Middle School Headmaster. Consequently, the 2nd respondent herein has reiterated the Government instructions vide proceedings in Rc. 12605 / E1 / 2015, dated 08.11.2017. Therefore, the incentive increments already sanctioned for B.Ed., degree was alone cancelled as per the orders of the 4th respondent proceedings dated 19.01.2018. The petitioner was granted incentive increments for M.A. Degree. Since the petitioner was promoted as Middle School Headmaster with effect from 02.06.2008, taking into consideration of B.Lit., qualification acquired by the petitioner, the petitioner is not entitled to incentive increments for B.Ed., degree in the year 2010. On the basis of the representation made by the petitioner incentive increment was sanctioned for B.Ed., Degree and M.A. Degree as per proceedings dated 18.11.2012. The petitioner was promoted as B.T. Assistant and then as Middle School Headmaster on the basis of B.Lit., Tamil qualification. Therefore, B.Ed., Degree is not considered as higher qualification, which was acquired while holding the post of Middle School Headmaster. G.O.Ms.No.107 permits grant of incentive increment for B.T. qualification in respect of Tamil Pandits Grade II, such provision is applicable only if the petitioner holds the post of Tamil Pandit Grade II as on the date of acquiring such B.Ed. degree qualification. When the B.Ed. qualification is a mandate for holding the post of Middle School Headmaster, such B.Ed. degree acquired while holding the post of Middle School Headmaster, cannot be considered as higher qualification and thereby not entitled for incentive increment. In the above G.O. there is no mention about the B.T. Middle School Headmaster since such post was upgraded as B.Ed. Middle School Headmaster subsequent to the issue of the above G.O. Hence, the said Government Order is not applicable in the case of the petitioner.

5. Heard Mr.C.Santhosh Kumar, the learned counsel appearing for the petitioner and Mr.V.Om Prakash, the learned Government Advocate for the respondents and perused the records.



6. The Government has issued G.O.Ms.No.1297 Education Department dated 21.01.1979, wherein the B.Lit., qualified teachers were included in the feeder category for considering the promotion as B.T. Middle School Headmaster by taking into account B.Lit., Tamil qualification. Earlier to this G.O. B.Ed., qualification is one of the required qualification for promotion as Middle School Headmaster. Which means the B.Lit., B.T. and B.Ed., qualification are considered on par and they are considered as equal qualification. Hence when the teacher is having B.Lit., qualification, then B.Ed. cannot be considered as higher qualification for the purpose of incentive increment. Moreover, there is no specific provision in the Government orders in G.O.Ms.No.1297 or G.O.Ms.No.107 for granting incentive increment for B.Ed., degree while holding the post of Middle School Headmaster. The petitioner was granted incentive increment for M.A., Degree. The petitioner is not entitled to incentive increments for B.Ed., Degree, since the said degree was obtained/acquired after promotion to the post of Middle School Headmaster.

7. The Tamil Nadu Government has issued G.O.Ms.No.42, Education Department, dated 10.01.1969 under Sl.No.5 and 6, it has been stated that Pandits I Gr and Pandits II Gr are eligible for incentive increments, if they have acquired higher qualification for B.T. or B.Ed., degree of any university in this State or Degree of other Universities recognized as equivalent to B.Ed., degree of other Universities regularized as equivalent to B.Ed., degree. The relevant portion is extracted hereunder:

Category	Scale of Pay	Higher Qualification for which two advance increments are admissible.
Pandits I Gr.	140-250 of low scale	B.T., or B.Ed., degree of a university in this state or degree of other Universities recognized as equivalent to BT of B.Ed., degrees of Universities of this State
Pandits Gr.II	90-4-110-5-140	-do-

8. While implementing the Government Order, certain issues arose and the same was addressed in G.O.Ms.No.1032, Education Department, dated 22.03.1971 and G.O.Ms.No.107 Education Department, dated 20.01.1978 and G.O.Ms.No.1024 Education, Science and Technology Department, dated 09.12.1993. In G.O.Ms.1032, it has been clarified as under:

(v) The following clarifications are issued regarding advance increments to secondary grade teachers.

1. A Secondary Grade Teacher (or other specialist teacher) will not get any financial benefit if he passes only B.A or B.Sc. He will get advance increments after passing B.A or B.Sc., he passes B.T.

also



2. A Secondary Grade Teacher who first passes B.T and gets two advance increments, but who also still continues to work in a secondary grade post and who passes M.A., or M.Sc., will get two more advance increments.

3. A Secondary Grade Teacher who first passes M.A., or M.Sc., without first passing B.T need not be granted any advance increments at one stroke.

(vi) Four advance increments can be given at the same time B.T., Assistants who possess M.A (or M.Sc.,) and M.Ed.,

9. In G.O.Ms.No.107, it has been stated as under:

2. The present position regarding increments to Tamil Pundits (with reference to G.O.Ms.No.42 Edn. Dated 10.01.1969 and para 4 of G.O.Ms.No.1032 Edn, Dated 22.06.1971) is as follows.

(i) B.A and B.O.Ls. Can be appointed as Grade I Tamil Pandits only if they have passed B.T. Hence no incentive increment admissible to them for passing B.T. But they can get two incentive increments for passing M.A and two more for passing M.Ed.

(ii) Pulavars and vidwans can be appointed as Grade I Tamil Pandits even if they do not have B.T., but have only Pandits Training or Secondary Grade Training and completed S.S.L.C For appointment as Pandits Grade II also a B.T is not necessary. For these categories incentive increments are admissible only passing B.T. But not passing M.A., or M.Ed.

3. In Modification of para 2(ii) above, the Government now issue revised orders to following effect.

Tamil Pandits Grade I, who do not have to possess B.T., for initial appointment Grade II Tamil Pandits may be allowed two incentive advance increments either B.T. Or for M.A. Advance increments may be allowed a second time for such a teachers who after passing B.T. Possess M.A., or after passing M.A. Passes B.T Advance increments shall not be allowed to them for passing M.Ed.

10. In G.O.Ms.No.1024 it has been stated as under:

3) Government now issue the following amendments to the G.O. First and third above.

(1) In the Annexure to G.O.Ms.No.42, Education dated 10.01.1969, for paragraph (ii) the following paragraph shall be substituted, namely:-

(ii) A Secondary Grade Teacher who has passed B.T. or B.Ed., degree examination and obtained two advance increments shall be eligible for another two advance



increments for passing M.A., M.Sc., or M.Ed., Degree while working either in the Secondary Grade post or in B.T./B.Ed., Assistant post. A B.T. Teacher who after passing M.A., or M.Sc., and obtained two advance increments shall be eligible for another two advance increments is qualified M.Ed., Degree while working in B.T. Assistant Post or Headmaster post.

(ii)a) The maximum number of advance increments which a Teacher can get under the Scheme of incentive increments under this Government Order shall be four in his entire service.

(2) In G.O.Ms.No.746, Education, dated 30.06.1989, for paragraph 4, the following paragraph shall be substituted, namely:-

(3) The Government have considered the orders of the High Court referred to in para 3 above and the request of Thir.u V.Asirvatham to allow two more advance increments to him for acquiring M.Ed., qualification.

4. These orders shall take effect from the date of issue.

11. A communication dated 03.12.2010 by the Director of Elementary Education, wherein, it has been stated as under:

“எனவே அரசாணை நிலை எண்.107/பள்ளிக் கல்வித் துறை/ நாள் 20.01.1976 மற்றும் அரசாணை எண்.1024/கல்வி/நாள் 09.12.1993 ஆகியவற்றிற்கு உட்பட்டு நடுநிலைப்பள்ளிகளில் தமிழாசிரியராகப் பணிபுரிபவர்கள் பி.எட், அல்லது எம்.ஏ. முதலில் தேர்ச்சிப் பெற்றால் முதல் ஊக்க ஊதிய உயர்வும் பின்னர் எம்.ஏ., அல்லது பி.எட்., தேர்ச்சி பெற்றமைக்கு 2-வது ஊக்க ஊதிய உயர்வும் அனுமதிக்கலாம் என்றும், ஆனால் ஒரு ஆசிரியரின் மொத்த பணிக் காலத்தில் 2 ஊக்க ஊதிய உயர்வு மட்டுமே அனுமதிக்கலாமென்றும் மேற்கண்டவாறு 2 ஊக்க ஊதிய உயர்வு பெற்றவர்கள் பின்னர் எம்.எட்., தேர்ச்சிப் பெற்றால் ஊக்க ஊதிய உயர்வு அனுமதிக்கக் கூடாது என்றும், தங்கள் அலகிற்குட்பட்ட அனைத்து உதவித் தொடக்கக் கல்வி அலுவலர்களுக்கும் தெரிவிக்குமாறு அனைத்து மாவட்டத் தொடக்கக் கல்வி அலுவலர்கள் கேட்டுக் கொள்ளப்படுகிறார்கள்.”

12. The petitioner was not holding the post of Tamil Pandit while acquiring the B.Ed. degree. but was holding the post of HM. Moreover the B.Ed., is not considered as higher qualification for the purpose of incentive increment if the teacher is promoted. In other words, since the B.Ed., is one of the mandatory qualification for holding the post of Primary / Middle School Headmaster. subsequent qualification after promotion is superfluous. Hence the contention of the petitioner that he is eligible for B.Ed., is against Government orders and the Rules made thereunder. Even according to the petitioner after acquiring B.Lit., if the teacher had acquired B.Ed. then it is only “additional qualification” and not “higher qualification”. Incentive increment are granted to

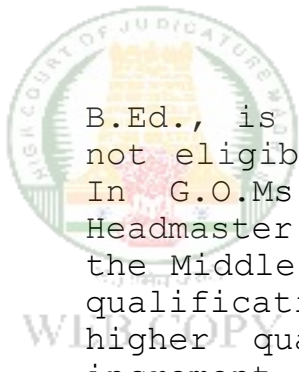


teachers when they acquire higher qualification and not additional qualification.

13. For the post of Primary School Headmaster and Middle School Headmaster, the required qualification is B.Ed., B.Lit., B.T. Under Rule 6(b)(i) Annexure of the Special Rules for Tamil Nadu Elementary Educational Subordinate Service Rules, B.Lit., B.Ed., B.A., and B.Sc., are considered as on par. The relevant portion of the Rule is extracted hereunder:

Name of Category	Method of Appointment	Qualification
Headmaster of Middle Schools (B.Ed., grade)	Promotion and Transfer	1.A degree of any University in the State or a degree of equivalent standard and B.T. or B.Ed. degree of any University in the State or 2.(a) A degree in Tamil of any University in the State or (B)Minimum General Educational Qualifications as defined in Schedule I to the General Rules for the Tamil Nadu State and Subordinate Service and Title of Oriental Learning conferred by any University in the State in the Language Provided that persons appointed as Tamil Pandit in any School prior to 01.04.1976 shall be eligible for appointment in any other School even after 01.04.1976 and 3.B.T., or B.Ed., degree of any University in the State or a Senior Basic Grade Trained Teachers Certificate or successful completion of the Pandit Training Course of Diploma in Teaching awarded by any University in the State.

Therefore it is evident that B.Lit., is not considered as lower rank and B.Ed. is not considered as higher rank. Therefore, the qualification obtained after B.Lit., is not considered as higher qualification. In other words, B.Ed., and B.Lit., are considered on par. If that is so, the B.Ed., qualification cannot be considered as higher qualification. As per G.O.Ms.No.42, incentive increments are granted, if the Teachers acquires higher qualification. Since the



B.Ed., is not considered as higher qualification, the Teachers are not eligible for incentive increments for acquiring B.Ed., Degree. In G.O.Ms.No.1297, it has been clarified that Primary School Headmaster who are promoted based on the B.Lit., qualification and the Middle School Headmaster, who are promoted based on the B.Lit., qualification, if they acquired B.Ed., the same is not considered as higher qualification and they are not eligible for incentive increment. B.Ed., is only one of the qualification to acquire M.A., and increment will be granted only for M.A., and not B.Ed.

14. Under Rule 6(b)(i) Annexure of the Special Rules for Tamil Nadu Elementary Educational Subordinate Service Rules, B.Lit., B.Ed., B.A., and B.Sc., are considered as on par. When the Rules specifically states and keeps these degrees on par, then the claim of the petitioners that B.Ed., should be higher qualification will not be valid argument. The petitioner has relied on several judgments, however those judgments have not taken the rule amendment into consideration and hence the judgments cannot come to the rescue of the petitioner. Therefore, this Court is of the considered view that the judgments relied on by the petitioner is not applicable because of the factual error.

15. On perusal of these Government Orders, it has been specifically stated that B.Ed., acquired will not be considered as higher qualification and they are not entitled to. The concept behind this is that, the Tamil Nadu Government in order to promote Tamil has taken a policy decision to grant promotion as Primary School Headmaster or Middle School Headmaster if the teacher acquires B.Lit. qualification. The government in order to treat them on par with the B.T. And B.Ed., degree, has amended the rule under Rule 6(i). Therefore, the Government has taken the policy decision that B.Lit., and B.Ed., are on par, that is why in the subsequent clarification there was a deliberate omission of granting advance increments for B.Ed., degree if the individual is promoted a Headmaster or Pandit based on B.Lit. qualification.

16. In these circumstances, the petitioner is not eligible for incentive increment for the B.Ed., qualification. It is seen from the records that the petitioners were already granted incentive increment and therefore, the respondents are empowered to recover the same from the petitioner. Under those circumstances, the G.O.Ms.No.37 is relevant. Under Class 6(6) it has been stated that if any orders is passed in the administrative department for granting incentive increments, then the same would be considered after obtaining concurrence from the Finance Department. The relevant portion of the G.O.Ms.No.37 under sub clause 6 is extracted hereunder.

6. For the forgoing reasons, the Government have taken a decision to cancel / dispense with the scheme of sanction of advance increment for acquiring higher qualification and for



passing Account Test for Sub ordinate Officers Part-I as per rulings (3) & (4) under FR 31-A and also to cancel the orders issued in Government Orders fifth to eighth read above. Accordingly, the Government issue the following directions:-

i. As a policy decision, the scheme of sanction of advance increment for acquiring higher qualification in all departments and all orders issued by all departments for sanction of advance increment for possessing higher qualification, as a whole, be cancelled / dispensed with immediate effect

ii. The orders issued in the Government Orders fifth to eighth read above be cancelled with immediate effect.

iii. The sanction of the advance increment for passing Account Test for Sub ordinate Officers Part-I as per rulings (3) & (4) under FR 31-A be dispensed with immediate effect

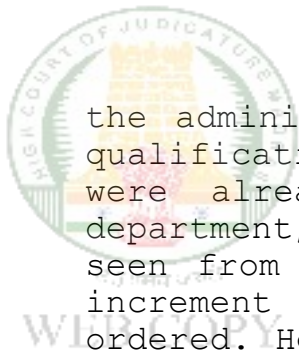
iv. The advance increment for acquiring higher qualification already granted to government servants need not be effected any recovery.

v. All the departments of Secretariat / Head of the Departments are requested to take up a review on this issue with reference to the special / adhoc rules of the posts (entry to higher level) of the department concerned and to prescribe higher qualification to the posts where ever necessarily required, so as to improve the services of the department concerned.

vi. The cases of the Government servants who have acquired higher qualification prior to issue of this general order, and not sanctioned with advance increments be examined separately as per the previous orders issued, if any, by the administrative department concerned and with reference to the posts specified in that order and if he is otherwise qualified, then the advance increment may be sanctioned by the administrative department concerned, after obtaining concurrence of Finance Department. If no previous orders were issued by any of the department concerned, then they are not eligible for sanction of any advance increments for passing higher qualification irrespective of the post held / degree acquired.

vii) No fresh / further proposals will be entertained by Personnel and Administrative Reforms Department on this issue, in future.

17. This Court has held supra that the G.O.s referred by the petitioner has not stated that the petitioner is entitled to the advance increment for the B.Ed. and there is no order passed in



the administrative department granting incentive increment for the qualification B.Ed. Since in the present cases incentive increments were already granted without any administrative order of the department, the granting of incentive increment is illegal. It is seen from the records that the petitioners were granted incentive increment and subsequently, it was cancelled and recovery was ordered. Hence this Court is remitting the cases of the petitioners to the Director of Elementary Education. The Director shall scrutinize the entire service records of the petitioners and then place the papers before the Finance Department and after obtaining concurrence from the Finance Department, the claim of the petitioner shall be considered in accordance with the law.

18. With these directions these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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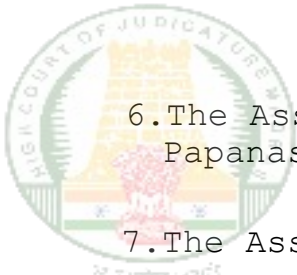
/ /2022

Sub Assistant Registrar(CS)

TM

To

- 1.The Secretary to Government,
State of Tamil Nadu,
School Education Department,
Secretariat, Fort. St. George,
Chennai - 9.
- 2.The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.
- 3.The District Elementary Education,
Thanjavur District,
Thanjavur.
- 4.The Additional Assistant Elementary Education Officer,
Kumbakonam, Thanjavur District.
- 5.The Assistant Elementary Education Officer,
Kumbakonam,
Thanjavur District.



6.The Assistant Elementary Educational Officer,
Papanasam, Thanjavur

7.The Assistant Elementary Educational Officer,
Thanjavur Municipality, Thanjavur.

WEB COPY

8.The District Elementary Educational Officer,
Ramanathapuram District,
Ramanathapuram.

9.The Assistant Elementary Educational Officer,
Thiruvadanai, Ramanathapuram District.

10.The Additional Assistant Elementary,
Educational Officer,
Thanjavur Rural Range,
Thanjavur District.

W.P. (MD) Nos.6387 of 2018 and batch
02.06.2022

RK(10/06/2022) 15P 11C