



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.11197 of 2014

and

M.P. (MD) .No.1 of 2014

WEB COPY

Jeevarani

... Petitioner

Vs.

The Assistant Elementary Educational Officer,
Bungalow Medu Road,
Theni,
Theni District.

... Respondent

Prayer : Writ Petition 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 proceedings of the respondent made in Na.Ka.No.1625/A2/2013 dated 26.12.2013 and quash the same and consequently direct the respondent to grant second incentive to the petitioner.

For Petitioner : Mr. R. Murali for Mr. M.Suresh Kumar
For Respondent : Mr.N.GA.Nataraj,
Government Advocate (Civil Side).

ORDER

This Writ Petition has been filed for Certiorarified Mandamus seeking interference with an order of the respondent dated 26.12.2013 and a consequential prayer to grant second incentive to the petitioner.

2.The petitioner was appointed as a Secondary Grade Teacher on 16.09.1988 with the qualification of Diploma in Teacher Education. The petitioner completed Bachelor of Tamil (B.Lit.) in the year 2003 and was promoted as Tamil Pandit in the year 2005. Thereafter, again promoted as Middle School Head Master in the year 2006. The petitioner acquired M.A., in the year 2007 and one incentive increment was granted. The petitioner acquired B.Ed., in the year 2011 and declined incentive increment for the same. The contention of the petitioner is under G.O.Ms.No.42 Education Department dated 10.01.1969, the petitioner is eligible for incentive increment for B.Ed. During the year 2007, the petitioner completed M.A., Tamil and was granted incentive increment in May, 2007. Thereafter, the petitioner completed Bachelor of Education (B.Ed.) during the year 2011 and prayed for another incentive increment. The same was declined stating that the petitioner was promoted as Middle School HM based on the B.Lit. qualification,



the petitioner is not entitled to. The contention of the petitioner is that B.Ed., qualification is a higher qualification for a person who studied B.Lit. and for any higher qualification, the petitioner is eligible for second incentive increment. But the respondents are declining to grant incentive increment stating that B.Ed., is only the basic qualification to the post of Middle School Head Master. Therefore, the petitioner is not eligible for incentive increment for acquiring B.Ed., degree, since she has already promoted as Middle School Head Master. Aggrieved over the petitioner has preferred the present writ petition.

3.The respondent filed a counter stating that the Government issued G.O.Ms.No.1023 Education and Science Technology Department dated 09.12.1993 where G.O.Ms.No.42 was amended and certain conditions was stipulated. The relevant portion is extracted as under:-

"(1) In the Annexure, to G.O.Ms.No.42, Education, dated 10.01.69 (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 passed M.A. or M.Sc. and obtained two advance increments shall be eligible for another two advance increments if qualified M.Ed., degree while working in B.T. Assistant post or Head Master post. As per G.O., the B.T. Assistant or Head Master not entitled incentive increment to qualified for B.Ed., but was entitled to incentive increment in M.Ed., qualification only. The petitioner was not qualified in M.Ed., she was not entitled to incentive increment in B.Ed., qualification".

4.The petitioner has obtained M.A., Tamil degree in the year 2007 and one incentive increment was already granted and thereafter, the petitioner completed B.Ed., in the year 2011, since the petitioner is working as Middle School Head Master from 2005 onwards in which B.Ed., qualification is prescribed as basic qualification. Since the petitioner is already holding the post of Middle School Head Master with B.Lit., qualification, the qualification of B.Ed., is not eligible for incentive increment. Therefore, the petitioner is not entitled to receive incentive increment. In this case, the petitioner has received incentive increment from the year 2011 onwards. Through the impugned order, the respondents directed to recover the amount.

5.Heard Mr. R. Murali, learned counsel for the petitioner and Mr.N.GA.Nataraj, learned Government Advocate for the respondent.



6.The contention of the respondents are that the qualification prescribed for Middle School Head Master is B.Ed., which is the basic qualification. Since several representations were received from the persons who are qualified with B.Lit. for granting promotion. The Government in order to promote Tamil has accepted and the B.Lit., qualified persons were granted promotion as Middle School Head Master. The B.Lit., is treated on par with B.Ed. and B.T. Therefore, B.Lit., B.Ed., B.T. are treated as eligible for promotion to the post of Middle School Head Master. Since the petitioner with qualification of B.Lit., is promoted as Middle School Head Master. The petitioner cannot go back again and study B.Ed. and claim B.Ed., is eligible for incentive increment and such qualification is not necessary and which is superfluous. Moreover, G.O.Ms.No.42 states that the Secondary Grade Teacher would be eligible for incentive increment for B.Ed. or B.T. Then the second incentive increment for M.A. M.Sc. M.Ed. Once the petitioner has received incentive increment for M.A. then the petitioner again cannot go back and seek incentive increment for B.Ed. Hence, the petitioner is not entitled to receive incentive increment.

7.The granting of incentive increment is within the domain of the Government and the conditions stipulated are applicable. As per G.O.Ms.No.1024, dated 09.12.1993, the Government restricted the number of incentive (four increments). The said G.O. was clarified that no teacher shall be entitled for any advanced increments more than two, in their entire service. In the subsequent G.O. (1D) No.18 School Education (E2) Department dated 18.01.2013, the entire issue was fully clarified and based on this GO also, the petitioner is not entitled for incentive increment for B.Ed., degree. Therefore, this Court is of the considered opinion the petitioner is not entitled to incentive increment for B.Ed.

8.The Government has issued G.O.Ms. No.37 Personnel and Administrative Reforms (FR-IV) Department dated 10.03.2020, has stated as under

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 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 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 increment 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.

9. In the present case, the petitioner was sanctioned and the petitioner was receiving from 2011 onwards. The G.O states that any advance incentive increment already granted need not to be recovered from the concerned employees. Taking all these clauses into consideration, the first respondent shall consider the case of the petitioner and pass orders, in the light of G.O. (MS) No.37 dated 10.03.2020. The first respondent is directed to pass order, within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

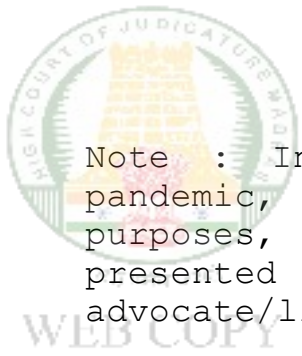
Assistant Registrar (WRITS)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

Nsr



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Assistant Elementary Educational Officer,
Bungalow Medu Road,
Theni,
Theni District.

W.P. (MD) .No.11197 of 2014

10.02.2022

USK/02.03.2022/5P/2C