



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 11.04.2022

DELIVERED ON : 02.06.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.16717 of 2015

WEB COPY

M.Ambika Rajalakshmi (died)

1.S.Sangan

2.S.Senthilnathan

3.S.Logeswari

4.S.Selvanathan ... Petitioners

(Petitioners 1 to 4 are substituted as legal heirs of the deceased petitioner vide Court Order dated 04.12.2020 made in W.M.P. (MD) . No.3111 of 2019 in W.P. (MD).No.16717 of 2015)

Vs

1.The District Elementary Educational Officer,
Karur,
Karur District.

2.The Assistant Elementary Educational Officer,
Kadavoor Union,
Karur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in Na.Ka.No.274/A1/2015 dated 02.07.2015 of the second respondent herein and quash the same and consequently direct the respondents herein to award incentive increment for the M.A and B.Ed. degrees with effect from the date of passing of the said degree to the petitioner herein.

For Petitioners : Mr.T.Pon Ramkumar,

For Respondents : Mr.V.Omprakash,
Government Advocate (Civil Side).

O R D E R

This Writ Petition has been filed to quash the impugned order dated 02.07.2015 and consequently direct the respondents to grant incentive increment for M.A., and B.Ed., degree with effect from the date of passing of the said degree.



2. The brief facts of the case are that the petitioner passed S.G.T.T in the year 1989. On 27.01.1999, the petitioner was appointed as Secondary Grade Teacher in the Panchayat Union Primary School, Sonampatti, Kadavoor Union, Karur District. The petitioner got permission from the respondent to study B.Lit. (Tamil) and passed in the year 1997. Thereafter, on 01.06.2000, the petitioner was promoted as Elementary School Headmistress in the Panchayat Union Primary School based on the qualification of B.Lit. Thereafter, the petitioner got permission to study M.A.(Tamil) and passed in the year 2001. Thereafter, on 06.11.2007, the petitioner was promoted as Middle School Headmistress in the Panchayat Union Middle School. At present, the petitioner is serving as Middle School Headmistress. In the year 2014, the petitioner passed B.Ed., degree.

3. As per Rule 6 and Annexure referred to in Rule 6(B)(i) of the Special Rules for the Tamil Nadu Elementary Educational Subordinate Service Rule prescribes qualification for the post of Headmasters of the Middle School is as under:

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.

4. In this, the B.Lit., degree was recognized and was brought as a feeder category to be promoted as Headmaster along with

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candidates who are having B.T. or B.Ed. In short, the candidates possessing B.T., B.Ed., and B.Lit., are kept on par for considering promotion. Since the petitioner is having B.Lit. (Tamil), and B.Lit., is prescribed as one of the qualification as Middle School Headmaster, on 06.11.2007, the petitioner was promoted as Middle School Headmaster. The contention of the petitioner is that the respondents have taking into consideration of the Government Orders in G.O.Ms.No.42 Education Department, dated 10.01.1969, G.O.Ms.No.1022 Education Department dated 22.06.1971 and G.O.Ms.No.1023 Education Department dated 09.12.1993 and grant incentive increment to the petitioner vide proceedings dated 15.09.2013 to the B.Ed., degree to several teachers in the Karur District. Based on the Government Order, the petitioner has applied before the second respondent for awarding two incentive increments for M.A., and B.Ed. The respondents by relying on G.O.Ms.No.1383 (Education) dated 23.08.1988 by stating that the candidates with qualification of B.Lit., were given promotion as special instance and after the said promotion, if the candidate has passed B.Ed., degree, the candidates were not eligible for getting incentive increment for B.Ed., and has refused through the impugned order. Aggrieved over the same, the present Writ Petition has been filed.

5. The respondents have filed a counter stating that as per G.O.Ms.No.42, the incentive increment for B.Ed., was granted. However, subsequently it was clarified that if the person is qualified as B.Lit. and promoted as HM based on the said qualification, then the person cannot claim incentive increment for B.Lit. In other words since based on B.Lit., already the candidate is promoted as Middle School Headmaster or Primary School Headmaster, then B.Ed., degree is superfluous. Therefore, the petitioner is not entitled to incentive increment for B.Ed.

6. Heard Mr.T.Pon Ramkumar, learned counsel for the petitioner and Mr.V.Omprakash, learned Government Advocate (Civil Side), for the respondents.

7. It is an admitted fact that a person is promoted as Middle School Headmaster who are having a qualification of B.T., or B.Ed., or a degree in Tamil of any University in the State. Earlier only B.T., and B.Ed., holders alone are eligible to be promoted as Primary School Headmaster or Middle School Headmaster. The Tamil Nadu Government in order to promote Tamil, has amended the Rule by stating that a degree in Tamil of any University in the State was kept on par with B.Ed., and B.T., and they are placed as eligible candidates in the feeder category to be promoted as HM. This has placed the B.T., B.Ed., and B.Lit., are "on par". If a person has completed B.Lit., then the person is eligible to become Headmaster. Therefore, if any person has completed B.Ed., the same will be considered as equal qualification of B.Lit., it is not the higher qualification. Incentive increment was granted only for "higher qualification" and not for the basic qualification.



8. In the present case, the petitioner is having B.Lit., and was promoted as HM, after promotion the petitioner has completed B.Ed. and the same cannot be stated as higher qualification. The contention of the petitioner is that the said issue was considered in several cases and similarly placed persons were granted incentive increment. The stand taken by the respondents is that once they are promoted, they will not be getting the incentive increment. This Court is of the considered view that the rule amendment was not considered in any of these judgments. In the amendment, the B.Lit., is considered on par with the B.Ed. Moreover G.O.Ms.No.42 was issued in the year 1969 and the rule amendment was subsequent the said G.O.Ms.No.42.

9. It is an admitted fact that the candidate is eligible to get incentive increment for any higher qualification.

- If the person has completed B.T. and has acquired qualification of B.Ed., then the person cannot claim incentive increment for B.Ed.
- Likewise if a person completed B.Lit. and acquires qualification of B.T. or B.Ed., then the person is not eligible for incentive increment for B.T. or B.Ed.

The reasons behind this is that B.T., B.Lit., and B.Ed., are considered on par, then the B.Lit., completed candidates if they qualify B.Ed., then B.Ed., is not a higher qualification at all. Therefore, the petitioner is not eligible for getting incentive increment for B.Ed.

10. However, the petitioner is eligible for incentive for M.A. But subsequently, the issue of granting incentive increment was considered by the Government in G.O.Ms.No.37 Personnel Administrative Reforms (Fr-141) dated 10.03.2020, where granting of incentive increment for all higher qualification are cancelled. If there are any eligible candidates and if there is any order to grant incentive increments, then the same ought to be granted after getting concurrence from the Finance Department. The relevant portion of the G.O. is extracted hereunder:

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.

11. In the present case, no order was passed for granting incentive increment. In such circumstances, as per G.O.Ms.No.37, the petitioner is not entitled to, since granting of incentive increment was cancelled. Even though the petitioner is eligible for M.A., based on G.O.Ms.No.37, the petitioner is not entitled to M.A., also. Therefore, the petition is devoid of any merits and is liable to be dismissed.



12. With the above observations, this Writ Petition stands dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar (AD II)

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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

1.The District Elementary Educational Officer,
Karur,
Karur District.

2.The Assistant Elementary Educational Officer,
Kadavoor Union,
Karur District.

+1 CC to M/s.T. PON RAMKUMAR, Advocate (SR-24309[F] dated 06/06/2022)

+1 CC to M/s.SPL.GP (SR-24292[F] dated 03/06/2022 & SR-24311[F] dated 06/06/2022))

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MGJ(10.06.2022) 6P 5C