



W.P.(MD)No.1237 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.1237 of 2016

and

W.M.P.(MD)No.1013 of 2016

S.Seethalakshmi

... Petitioner

VS

1. The Director of Elementary Education,
DPI Complex, College Road,
Chennai-600 006.

2. The District Elementary Educational Officer,
Ramanathapuram.

3. The Additional Assistant Elementary Officer,
Education Department,
Kadaladi, Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the third respondent i.e., the Additional Assistant Elementary Educational Officer Kadaladi



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relating to Na.Ka.No.193/A2/2015 dated 24.12.2015 and quash the same.

For Petitioner : Mr.S.Visvalingam

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

ORDER

This Writ Petition is filed for issuance of a Writ of Certiorari, to quash the impugned order dated 24.12.2015.

2. The brief facts of the case as stated in the affidavit are that the petitioner is presently serving as Headmistress in the Panchayat Union Middle School, Adamseri, Kadaladi Union, Ramanathapuram District. The petitioner received a communication, dated 25.08.2015 intimating that a sum of Rs.1,05,537/- (Rupees One Lakh Five Thousand Five Hundred and Thirty Seven only) would be recovered in one lump sum from the petitioner's salary on the ground that the pay fixed in the cadre of Elementary School Headmaster and Middle School



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Headmaster are objected to in the Audit. Thereafter, Rs.4,329/- (Rupees Four Thousand Three Hundred and Twenty Nine only) was recovered for the month of September 2015 even without issuing any notice and without providing an opportunity to the petitioner. Therefore, the petitioner has preferred a writ petition in W.P.(MD)No.18814 of 2015 dated 25.08.2015 and this Court passed an order dated 14.10.2015 by setting aside the impugned order and directing the petitioner to submit an explanation treating the recovery orders as notice within a period of two weeks. Thereafter, the third respondent was directed to pass orders within a period of three months. The petitioner submitted an explanation on 30.10.2015, thereafter, the impugned order dated 24.12.2015 was passed stating that the recovery ordered is in the order.

3. The contention of the petitioner is that the respondents have rejected by stating that the incentive increment for passing B.Ed., Degree is against law. The petitioner's submission is that it is true for the post of Headmaster/Headmistress of Middle School one should possess B.Ed., or B.T. But in respect of B.Lit., Degree (Tamil) holders, they need not possess B.Ed., for the post of Middle School Headmaster as per Rule 6(b)(i) Annexure of the Special Rules for Tamil



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Nadu Elementary Educational Subordinate Service Rules. According to the said Rule, which is also clarified by the Director of Elementary Education, Chennai, dated 24.05.2007 for Headmaster of Primary School Teachers holding Tamil Degree and promotion as Middle School Headmaster / Headmistress need not possess B.Ed., Degree. The petitioner has passed B.Ed., Degree in the year 2012. The petitioner is continuing in the post of Headmistress of the Middle School from 03.06.2010. But according to the petitioner she is entitled to incentive increment. The contention of the petitioner is that as per the G.O.Ms.No.1024 Education, Science and Technology Department, dated 09.12.1993, all the teachers are entitled to two incentive increments only for acquiring higher qualifications. Two increments or four increments can be granted totally during the entire period of service. However, the petitioner is comparing with one Mariappan who was granted Incentive Increment of Rs.150/- and therefore, the petitioner is seeking to grant the Incentive Increment as per G.O.MS.No.42.

4. The second respondent has filed counter affidavit stating that during the year 1991-1992, Secondary Grade Teachers were appointed in the Government Schools on consolidated pay. Subsequently, their services were regularized by



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way of G.O.Ms.No.336, School Education Department, dated 30.12.2009, thereafter, they were brought under time scale of pay. The petitioner was appointed on consolidated pay and as per the G.O.Ms.No.336, the petitioner was regularized and then promoted as Primary School Headmistress on 08.02.1999. As per the existing procedures adopted by the educational authorities, after the promotion as Primary School Headmistress, the petitioner's scale of pay should have been increased by availing 5% (Rs.260/-) from her original salary of Rs. 5,125/- (Rupees Five Thousand One Hundred and Twenty Five only) which amounts to Rs.5,450/- (Rupees Five Thousand Four Hundred and Fifty only). But instead, there is a wrong fixation by granting next stage of salary of Rs.5,600/- (Rupees Five Thousand and Six Hundred only). In the meantime, the petitioner was promoted as Middle School Headmistress on 03.06.2010. After promotion as Middle School Headmistress, the petitioner has acquired B.Ed., degree in the year 2012. Based on the wrong fixation, the authority issued a recovery proceeding, dated 25.08.2015. The petitioner has challenged the order in W.P.(MD)No.18814 of 2015 and this Court directed the petitioner to submit an explanation by considering the said order as show cause notice. Thereafter, the respondents are directed to consider and pass orders within a period of three months. After



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consideration, the present impugned order was passed. By considering the petitioner's explanation and after having verified with all relevant records of the petitioner, it was further ascertained that the wrong fixation was made only on account of the petitioner's misleading and further identified that the petitioner was granted two additional incentive increments for acquiring educational qualifications of M.A., and B.Ed., The petitioner was already qualified as B.Lit., and based on her qualification, the petitioner was already promoted as Middle School Headmistress. Therefore, for acquiring B.Ed., the petitioner is not entitled for one more additional increment. After the promotion as Middle School Headmistress, the petitioner has passed B.Ed., in the year 2012. The Government issued G.O.Ms.No.1024 Education, Science and Technology Department, dated 09.12.1993, the Government restricted the number of incentives to two, whereby it was clarified that no Teachers can get advance incentives for possessing B.Ed.,

5. The petitioner has relied on G.O.(1D)No.18 School Education (E2) Department, dated 18.01.2013, wherein it has been stated with regard to incentive increments of B.T. Assistant Teachers. For acquiring M.A. / M.Sc., qualification first incentive will be granted and for acquiring M.Ed., with M.Phil./ Ph.D.,



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second incentive will be granted. In the present case, the educational qualification of the petitioner is B.Lit., B.Ed., and M.A., So, ultimately, as per the qualification of the petitioner herein, she is entitled for only one increment for M.A., but the petitioner was wrongly granted one more increment for B.Ed. The Government has issued another G.O.Ms.No.1032, Education Department, dated 22.06.1971, in which a detailed discussion is made and the Government has stated in regulation No.4(a) and it is ordered as under:

“4. Under existing orders, Pandits Grade I and II who possess or acquire B.T. alone are eligible for incentive payments. If a non B.T Tamil Pandits now is service aspires to get two advance increments he should study for B.T. He will not get any advance increments (even if he already possesses or) if he hereafter acquires M.A. Degree. The Government now issue revised orders to the following effect:-

(a) Categories (1) and (2) of Grade I and Tamil Pandits have to possess B.T. even for initial appointment and hence they will not be eligible for advance increment for possession of B.T (or B.Ed.,) they may however be allowed two advance increments possession of M.A and two for M.Ed.,”

Therefore, the petitioner is not entitled to advance increments for B.Ed., Degree.

6. The petitioner relied on the judgments rendered by this Court in W.P.(MD)Nos.13614 and 13615 of 2017 dated 17.09.2019. Another judgment in



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W.P.(MD)No.6658 of 2015 reported in 2022-1-Writ L.R.95 and judgment rendered in W.A.(MD)No.529 of 2007, wherein this Court has held that based on the G.O.MS.No.42, the petitioner is entitled to incentive increments. This Court has held that the said Teacher is eligible for B.Ed., degree and directed the respondents to grant incentive increment. However, the respondents have submitted that the petitioner is entitled to draw the incentive increments for acquiring M.A. and M.Ed., degree but not for B.Ed. since the petitioner was already promoted as Primary School HM.

7. Heard Mr. S. Visvalingam, learned Counsel appearing for the petitioner and Mr. V. Omprakash, learned Government Advocate appearing for the respondents.

8. The petitioner was appointed in the year 1991-1992 as Secondary Teacher on consolidated pay and regularized and brought under time scale of pay as per G.O. Ms. No. 336 dated 30.12.2009. The petitioner was promoted on as Primary School HM 08.02.1999 and then Middle School HM on 03.06.2010. The petitioner acquired B.Ed. degree in the year 2012. The petitioner was promoted as



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Primary School HM and Middle School HM based on the B.Lit., qualification.

9. The 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 of 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. 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 the relevant portion is extracted hereunder:

(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.



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

Under clause (1) of G.O.Ms.No.1032 specifically states that the secondary grade teacher will be eligible incentive increment if he passes B.T. after passing B.A. and B.Sc. It is not stating that the Tamil Pandits are eligible. Moreover, it has not included the qualification of “B.Ed.”.

10. Then G.O.Ms.No.107 Education Department, dated 20.01.1978 was issued and the relevant portion is extracted hereunder:

2. The present position regarding increments to Tamil Pundits (with reference to G.O.Ms.No.42 Education Dated 10.01.1969 and para 4 of G.O.Ms.No.1032 Education 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



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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 teacher 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.

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

“எனவே அரசாணை நிலை எண்.107/பள்ளிக்கல்வித்துறை/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., தேர்ச்சிப் பெற்றமைக்கு 2-வது ஊக்க ஊதிய உயர்வும் அனுமதிக்கலாம் என்றும், ஆனால் ஒரு ஆசிரியரின் மொத்த பணிக்காலத்தில் 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.”

Under clause 3 of G.O.Ms.No.107 it specifically states that Tamil Pandits may be



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allowed two incentive increments either for B.T. or M.A. and not for both. For second increment, a teacher who after passing B.T. possess M.A., or after passing M.A. passes B.T. However, the advance increments shall not be allowed to them for passing M.Ed. In the present case the petitioner's qualification is B.Lit., B.Ed. and M.A. Therefore, the petitioner is either entitled to M.A. or B.Ed. and not entitled to both. Since the incentive increment is granted to M.A., the petitioner is not entitled to B.Ed. as per G.O. Ms. No. 107. Moreover this G.O. only speaks of B.T. qualification and not B.Ed. qualification and on this point also the petitioner is not entitled to. On combined reading of the G.O. and the said communication this Court is of the considered opinion for the reasons stated above the petitioner is not entitled to.

12. Then G.O.Ms.No.1024 Education, Science and Technology Department, dated 09.12.1993 was issued and the relevant portion is extracted hereunder:

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*



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*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 if 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 Thiru. 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.

Under clause 3(1)(i)G.O.Ms.No.1024 it specifically states that only 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.** This clause states that the person is entitled to if the person is working as Secondary Grade Teacher, who had passed



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B.T. of B.Ed. and obtained incentive increment. In the present case the petitioner was working as Tamil Pandit and not Secondary Grade Teacher. The clause further states that the person would be getting incentive increment for M.A., M.Sc., or M.Ed. and in the present case the petitioner was granted incentive increment for M.A. and therefore the petitioner is not entitled to for B.Ed. degree. The clause further states 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 if qualified M.Ed., Degree while working in **B.T. Assistant Post or Headmaster post**. In the present case the petitioner is working as Headmaster, then the petitioner is eligible if the petitioner is qualified as M.Ed. But the petitioner is seeking for B.Ed. and as per this clause the petitioner is not entitled to. Moreover, the qualification for promotion to the post of Headmaster is B.Ed., B.T. and B.Lit. and now based on B.Lit. the petitioner was already promoted as Headmaster, hence the B.Ed. qualification cannot be considered as higher qualification, but it is only on par with B.Lit. Therefore, from any angle the petitioner is not fitting into any eligible criteria and hence this Court is of the considered opinion that the petitioner is not entitled to incentive increment for passing B.Ed. degree.



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13. It is seen after the issuance of G.O. Ms. No. 42, the rule was amended. Under 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.



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14. On perusal of these Government Orders, it has been specifically stated that acquiring B.Ed., 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 the policy decision to grant promotion for Tamil Pandits with B.Lit. qualification as Primary School Headmaster or Middle School Headmaster and treat them on par with the B.T. And B.Ed., degree. 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. The petitioner has referred to some judgments, but in all these judgments, the subsequent clarification issued by the Government was not referred at all. With great respect to these judgments, this Court is of the considered opinion that since the judgments have not referred the subsequent clarification Government Orders and the amendment of rule, this Court is of the considered opinion that the petitioner is not entitled to incentive increments based on the Government Orders stated supra and the discussions as stated supra. Therefore, there is no infirmity on merits.



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15. Hence, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Internet : Yes

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To

1. The Director of Elementary Education,
DPI Complex, College Road,
Chennai-600 006.
2. The District Elementary Educational Officer,
Ramanathapuram.
3. The Additional Assistant Elementary Officer,
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Kadaladi, Ramanathapuram District.



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S.SRIMATHY, J

jbr

Order made in
W.P.(MD)No.1237 of 2016

21.03.2022