



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2022

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P(MD) No.2987 of 2016 and
WMP(MD).Nos.2617, 2618 and 8716 of 2016

Vedamuthu

:Petitioner

..VS..

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

2.The Assistant Director,
Regional Accounts Officer (Audit),
School Education Department,
Madurai - 625 002.

3.The Chief Educational Officer,
Office of the Chief Educational Officer,
Pudukkottai.

4.The Additional Assistant Elementary Officer,
Viralaimali Union,
Pudukkottai.

5.The Headmaster,
Government Higher Secondary School,
Kavarapatti,
Viralimalai Union,
Pudukkottai District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the 2nd respondent in Na.Ka.No.2115/A8/10, dated 05.10.2010 and the consequential impugned order of the 5th respondent in Na.Ka.No.86/2011, dated 21.04.2011, quash the same as illegal and consequently direct the respondents herein to continue the grant of incentive increment to the the petitioner for acquiring MA degree as per the G.O.Ms.No.42, dated 10.01.1969 and clarified in G.O.Ms.No.1032,, dated 22.06.1971 with all arrears and monetary benefits together with interest accrued thereon.



For Petitioner
For Respondents

: Mr. K. Appadurai
: Mrs. D. Farjana Ghoushia
Special Government Pleader

O R D E R

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This Writ Petition has been filed to quash the impugned order of the 2nd respondent in Na.Ka.No.2115/A8/10, dated 05.10.2010 and the consequential impugned order of the 5th respondent in Na.Ka.No.86/2011, dated 21.04.2011 and consequently direct the respondents herein to continue the grant of incentive increment to the petitioner for acquitting M.A., Degree as per the G.O.Ms.No.42, dated 10.01.1969 and clarified in G.O.Ms.No.1032,, dated 22.06.1971 with all arrears and monetary benefits together with interest accrued thereon.

2. The petitioner was appointed as Special Teacher (Agricultural Instructor) on 05.10.1988 and posted at Panchayat Union Middle School. The contention of the petitioner is that the Special Teacher is equivalent to the post of Secondary Grade Teacher as the pay scale of both the posts are one and the same. The petitioner has obtained necessary prior permission to pursue his higher education in B.Lit., B.Ed., in Tamil and for this higher qualification he has received two incentive increments. Thereafter, the petitioner obtained prior permission to pursue M.A., Tamil and has acquired two further incentive increments. Thereafter, Middle School, Kavarapatti was upgraded into High School to Higher Secondary School and the petitioner was observed in the Higher Secondary School from 30.04.2003 and he is continuing as a Special Teacher Agriculture in the pay scale of Secondary Grade Teacher. However, the second respondent under the guise of audit objection declined to grant incentive increment for M.A., qualification vide proceedings dated 05.10.2010 and consequential order dated 21.04.2011 was passed directing the petitioner to remit the excess amount paid to him. Aggrieved over the petitioner submitted the representation to the third respondent herein on 24.02.2015. The fifth respondent vide proceeding dated 11.03.2015 forwarded the said letter to the 3rd respondent. The further contention of the petitioner is that the action of the second respondent withholding the incentive increment from 2010 and recovery order passed on 21.04.2011 are illegal and without power and without jurisdiction. This Court vide interim order 11.02.2016 and has stayed the recovery order.

3. The respondents have filed counter affidavit along with the said petition. The contention of the respondents was that the petitioner was appointed as Special Teacher Agriculture (Instructor) on 05.10.1998 and he was granted incentive increment under G.O.Ms.No.42 dated 10.01.1969. In the said G.O under Category 8 of all other Special Teachers like PPET, Music Teachers, Agriculture



are eligible to receive only one incentive increment for higher qualification that **B.T. or B.Ed., or other recognized equivalent degrees in this case.** The petitioner was granted incentive increment for B.T., and B.Ed. The petitioner passed M.A. Degree and he was wrongly sanctioned incentive increment for M.A., Degree as per the proceeding dated 08.04.2003 with effect from 05.02.2001. Since the said claim is wrong claim and against the G.O.Ms.No.42, excess amount was ordered to be recovered. The said recovery is also legally valid as per G.O. Ms. No. 234, dated 01.06.2009, through this GO the 6th pay commission came into existence. The petitioner accepted to repay the amount and the entire money was recovered from his monthly salary in 12 equal monthly installments from the month of April 2011. The contention of the respondents are that the Secondary Grade Teachers are not equivalent to Special Teacher that is why in the G.O.Ms.No.42 a special clause is given to Special Teachers under category 8. The petitioner is being a Special Teacher is entitled to get only one advance increment under category of 8 and hence the writ petition is liable to be dismissed

4. Heard Mr. K. Appadurai the Learned Counsel appearing for petitioner and Mrs. D. Farjana Ghoushia the Special Government Pleader and perused the materials available on record.

5. The subject of granting incentive increments for acquiring higher education is to encourage and motivate the teacher to acquire higher academic qualification so that the students would gain from the teachers. The teachers would acquire higher qualification and based on the higher qualification they would be promoted for higher post in turn the students would be benefits. In the present case, the petitioner is working as Special Teacher (Agriculture Instructor). For any Special Teacher there is no promotional venue at all. The special teacher even though they are getting the same scale of pay as the Secondary Grade Teacher they are not and cannot be considered as Secondary Grade Teacher at all. The feeder category for the promotion is only secondary grade teacher not special teachers. As rightly pointed out by the respondents in G.O.Ms.No.42, the first category is Secondary Grade Teacher and the last 8th Category is the other special teachers. From this itself would be evident that the Government in his wisdom has passed the G.O. 42 and special teachers are not placed on par with the Secondary grade teacher. Therefore, the contention of the petitioner that secondary grade teacher is equivalent to special teacher is wrong. Therefore, the petitioner cannot equate himself as a secondary grade teacher and pray for one more incentive income. The petitioner has already completed B.Lit., B.Ed., and as per G.O.Ms.No.42 he has been rightly granted incentive increment for B.Ed., The petitioner is seeking incentive increment for M.A. and he is not entitled to.



6. The petitioner's contention is he is working in the Middle School, Kavarapatti, Viralimalai Union, Pudukkottai was upgraded into High School and Higher Secondary School and therefore, he is eligible for M.A., incentive increments. This contention cannot be accepted, because the petitioner himself stated "even though the school is upgraded as High School he is still continuing to work as Special Teacher Agriculture (Instructor) in the pay scale of Secondary Grade Teacher only", which means the school was upgraded and the petitioner's post was not upgraded. Even though the school is upgraded the petitioner is still special teacher and the special teacher is not eligible for any promotion to any post. The petitioner is confused and trying to confuse the court. The concept of granting incentive increment is to motivate the teacher to gain additional qualification in turn it would be useful to students. In the present case, if the petitioner is getting the additional qualification, the student would not be gained at all, since the petitioner will not be posted as Secondary Grade Teacher or the higher qualified post since he cannot get any promotion at all. From any angle, the petitioner is not entitled to incentive increment for M.A., Degree. **The G.O is not granting any incentive increment for M.A., Degree for the Special Teacher, if granted then it is illegal amount in the petitioner's hands.**

7. Therefore, the Writ Petition fails and the same is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

trp

To

1.The Director of School Education,
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DPI Complex, College Road,
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RJ(CO)
KB(08.03.2022) 5P 6C