



WEB COPY

W.P.(MD)No.22922 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 04.04.2022
DELIVERED ON : 02.06.2022
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.22922 of 2017

and

W.M.P. (MD) .Nos.19232, 19233 and 19234 of 2017

D.Babusamy Kamalakaran

... Petitioner

Vs

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort.St.George,
Chennai - 600 009.
- 2.The Director of School Education,
College Road,
Chennai - 600 006.
- 3.The Joint Director of School Education,
(Higher Secondary)
College Road,
Chennai - 600 006.
- 4.The Chief Educational Officer,
Madurai,
Madurai - 625 002.
- 5.The District Educational Officer,
Madurai,
Madurai - 625 002.
- 6.The Correspondent/Advocate Administrator,
UC Higher Secondary School,
Madurai,
Madurai - 625 001.

... 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 relating to the impugned proceedings issued by the third respondent Joint Director of School Education in O.Mu.No.003397/W5/E3/2017 dated 28.02.2017, quash the same and further direct the respondents to give permission to the petitioner

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for completion of his M.Phil Degree by way of ratification, and further direct the respondents to sanction two advanced increments to the petitioner for acquiring M.Phil Degree w.e.f. 01.06.2013.

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For Petitioner : Mr.S.Xavier Rajini

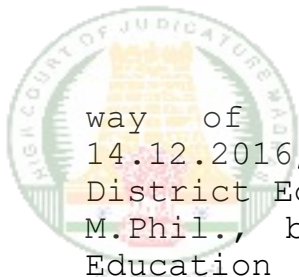
For R-1 to R-5 : Mr.V.Om Prakash,
Government Advocate (Civil Side).

For R-6 : No Appearance

O R D E R

This Writ Petition has been filed to quash the impugned order dated 28.02.2017 with a consequential prayer to direct the respondents to give permission for the petitioner for completion of M.Phil., degree by way of ratification and further direct the respondents to sanction two advanced increments for acquiring M.Phil., degree with effect from 01.06.2013.

2. The brief facts of the case are that the petitioner was initially appointed as B.T. Assistant on 05.01.2001 in the sixth respondent School. Subsequently, the petitioner was promoted as P.G. Assistant (Zoology) on 01.07.2010. The contention of the petitioner is that on the date of promotion as P.G. Assistant that is on 01.07.2010, the petitioner was possessing M.Sc., in Zoology and B.Ed., degree. On 15.07.2011, the petitioner sought prior permission from the respondents to study M.Phil., degree under part time in Bharathidasan University and the sixth respondent forwarded the same to the Director of School Education on 15.07.2011. The petitioner was under bonafide intention that the Director of School Education has granted permission to study M.Phil., and the petitioner joined M.Phil., under part time in the academic year 2011-2012. The petitioner submitted during the course of M.Phil., degree that is from 2011-2013, the students has passed in Zoology subject by securing high marks and there was no impediment for the petitioner to pursue higher education. Thereafter, the petitioner passed M.Phil., degree in May 2013 and has claimed two advanced increments for acquiring M.Phil. degree from 01.06.2013. Meanwhile, the Directorate of School Education directed to produce some documents by giving permission through proceedings dated 03.06.2013. In view of the proceedings, the sixth respondent School imposed the punishment of censure for completion of M.Phil., without obtaining prior permission from the Directorate. Thereafter it was approved by the fifth respondent District Educational Officer by the proceedings dated 01.02.2014. The petitioner submitted various representations to grant permission for completion of M.Phil., by



way of ratification and sanction incentive increments. On 14.12.2016, The Headmaster of the School submitted a proposal to the District Educational Officer requesting to grant permission to study M.Phil., by way of ratification. The Joint Director of School Education declined to give permission by way of ratification by citing the Government Letter I.D.No.356 School Education dated 02.11.2007 and declined the incentive increments through impugned proceedings dated 28.02.2017.

3. The contention of the petitioner is that if the approval is not granted within 15 days, it has to be considered as deemed approval as per G.O.Ms.No.200 (Personnel Administrative Reforms (Per-A) Department) dated 14.09.1996. In spite of several representations, since the approval was not granted and consequent incentive increment was not granted for higher education, the petitioner has filed this Writ Petition.

4. The respondents 1 to 5 submitted that the petitioner has submitted an application for granting permission to the School authorities. However, before granting the prior permission, the petitioner has completed the course, since no prior permission was obtained from the educational authorities under G.O.Ms.No.944 Education Department dated 29.07.1989. Therefore, the petitioner is not entitled to advance increments. Hence the respondents prayed to dismiss the Writ Petition.

5. Heard Mr.S.Xavier Rajini, learned counsel for the petitioner and Mr.V.Om Prakash, learned Government Advocate (Civil Side) for respondents 1 to 5 and there is no appearance on behalf of the sixth respondent.

6. It is seen from the records that the petitioner has submitted an application to the School Management for granting prior permission for the higher education namely, M.Phil., as a part time course. The School authorities claim that they have forwarded the application to the Education Department. Since there was no answer from the Education Department, the petitioner was under the impression that permission will be granted. In the meanwhile, the petitioner has completed the course itself from the year 2011-2013. When the application for ratification was submitted, it was directed by the educational authorities to take disciplinary action against the petitioner. Based on the direction from the educational authorities, the School has imposed the punishment of censure. The claim of the petitioner is that since he has completed by taking prior permission from the School, the petitioner is entitled to the incentive increment. However, there is no prior permission accorded by the educational authorities. In such circumstances, except the first respondent government, the other respondents are not having any power to grant ratification. The Government alone has power to grant ratification. However, the Government has ratified as one



time measure and subsequently, the Government declined to ratify any such application for ratification.

7. In the meanwhile, the Government has issued G.O.Ms.No.37 and G.O.Ms.No.116 whereby grating incentive increments for higher qualification is cancelled under clause 6(vi). The Government Order states that if there is no order passed in favour of the petitioner prior to the issuance of this Government Order then the petitioner is not eligible for any incentive increment. If any orders are passed in favour of the petitioner then it has to be decided in concurrence with the Finance Department. Admittedly, in the present case, until now the petitioner was not granted any incentive increments by passing any order. In such circumstances, as per G.O.Ms.No.37, the petitioner is not entitled to any incentive increments for higher qualification. The Government has taken a policy decision by taking the financial implication for granting incentive increment and has cancelled the same. Incentive increments will be given with a condition and since the petitioner has not complied the condition, the petitioner is not entitled to the incentive increments. Since there is a policy decision, the Government cannot be forced to grant incentive increment for higher qualification. Therefore, the Writ Petition fails and is liable to be rejected.

8. With the above observations, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD.II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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 Secretary,
The State of Tamil Nadu,
Department of School Education,
Fort.St.George,
Chennai - 600 009.
 - 2.The Director of School Education,
College Road,
Chennai - 600 006.
 - 3.The Joint Director of School Education,
(Higher Secondary)
College Road,
Chennai - 600 006.
 - 4.The Chief Educational Officer,
Madurai,
Madurai - 625 002.
 - 5.The District Educational Officer,
Madurai,
Madurai - 625 002.
- +1 CC to M/s.S. XAVIER RAJINI, Advocate (SR-24332[F] dated
06/06/2022)

Pre-delivery Order made in
W.P. (MD)No.22922 of 2017
02.06.2022

-SS(09.06.2022) 7P 7C