



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.2834 of 2023

J.Jasmine Kamala Sunira

Petitioner

vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary,
School Education Department,
Fort St. George,
Chennai – 600 009.

2.The Director of Teacher Education,
College Road,
Chennai – 6.

3.The Principal,
District Institute of Education and Training,
Kaliyampoondi,
Kanchipuram District – 603 402.

4.The Correspondent,
Gnanodhaya Teacher Training Institute,
Polwell's Road, St. Thomas Mount,
Chennai - 16.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 3rd respondent in



Na.Ka.No.1786/A7/2021 dated 18.05.2022 and quash the same and consequently direct respondents 1 to 3 to sanction two incentive increments i.e. for M.Phil from April 2004 and Ph.D from November 2016.

For Petitioner : Mr.P.Ebenezer Paul
For Respondent : Mrs.M.Jayanthi
Additional Government Pleader
for R1 and R2

ORDER

Since the issue involved in this writ petition is squarely covered by the earlier order passed by this Court, the main writ petition itself is taken up for final hearing.

2.This writ petition has been filed challenging the impugned proceedings of the 3rd respondent dated 18.05.2022 and for a consequential direction to the respondents to sanction two incentive increments and to pay the attendant benefits.

3.The case of the petitioner is that she was appointed as a Lecturer in Mathematics during the period from 2004 to 2007 at Vel's Teacher Training Institute, Chennai. Thereafter, a vacancy arose in the 4th respondent Institute and the petitioner was appointed in the said vacancy. The appointment of



the petitioner was also pending approval and in the meantime, the petitioner was only paid a meager salary. The appointment of the petitioner was ultimately approved by the 3rd respondent through proceedings dated 27.11.2015. The petitioner in the meantime, had acquired higher qualifications and became entitled for two incentive increments in terms of G.O.Ms.No.42, dated 10.01.1969. The eligibility of the petitioner arose since the petitioner completed M.Phil., and Ph.D.

4.The representations were made to the respondents claiming for incentive increments and through the impugned proceedings of the 3rd respondent dated 18.05.2022, the incentive increments sought for by the petitioner was rejected. Aggrieved by the same, the present writ petition has been filed before this Court.

5.Heard Mr.P.Ebenezer Paul, learned counsel appearing on behalf of the petitioner and Mrs.M.Jayanthi, learned Additional Government Pleader appearing on behalf of the respondents.

6.The main issue that is involved in the present writ petition is that whether the 3rd respondent was right in rejecting the claim made by the



petitioner seeking for incentive increments by quoting G.O.Ms.No.37, which had only a prospective application and which is also subsequently, clarified by G.O.Ms.No.116, dated 15.10.2020. This issue is no longer *res integra* and it is squarely covered by earlier order passed by this Court in W.P.No.2043 of 2018, dated 28.07.2022 and the relevant portions are extracted hereunder:

14. As has been rightly pointed out by the learned counsel appearing for the petitioner that G.O.Ms.No.624 dated 13.07.1992 and the import of the Government Order has been deleted by the subsequent Government Order in G.O.Ms.No.324, Education Science and Technology Department (E2) dated 25.04.2005. The relevant portion of the Government Order reads thus:

“5. The Government accordingly direct that

a. The conditions (i) to (iii) in para 3 of G.O.Ms.No.624, Education dated 13.07.1992 be deleted, ii) For the sanction of incentive increments, the subjects in the Higher Secondary Syllabus shall be the relevant subjects.

b. In respect of the teachers in Physical Education they are eligible for the incentive for higher qualification only in physical education.

c. These orders will take retrospective effect from



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17.09.1986 to cover past cases.

d. The teachers who have acquired higher qualification in subjects other than higher secondary syllabus shall not be eligible for any incentive increment. 6. This order issues with the concurrence of Finance vide its U.O.No.235, JS(IF) Education, dated 24.04.1995.”

15. Therefore the present Government Order makes it clear that, for the sanction of incentive increment for the subjects in the higher secondary syllabus which shall be the relevant subjects. Moreover, this deletion would take retrospective effect from 17.09.1986, therefore, nothing stated in G.O.Ms.No. 624 would prevail upon the incentive increment benefit to be extended to the eligible persons.

16. Insofar as the relevant subject in higher secondary syllabus is concerned, M.A. Economics as well as the B.Ed degree is one of the relevant subject, therefore, such a qualification if acquired by the petitioner, this Court feels that, certainly the petitioner would be entitled to get such incentive increment.

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19. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:



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? The impugned order viz., the order dated 14.12.2018 passed by the third respondent is hereby set aside and the matter is remitted back to the third respondent to reconsider the plea of the petitioner for grant of advance incentive increment for the higher qualification of B.Ed and M.A. Economics acquired by the petitioner and while deciding the same, the proceedings issued by the second respondent dated 24.08.2016, which is also impugned herein shall not be taken into account as that kind of proceedings cannot overwrite the policy taken by the Government, which is reflected in the Government Order as referred to above and therefore, independently based on the extent Rule as well as the Government Order in this regard, which are issued already as indicated above, the third respondent shall reconsider the plea of the petitioner and accordingly pass a reasoned order with regard to sanctioning the advance incentive increment for having acquired the higher qualification as indicated above.

7. In the light of the above, the impugned proceedings of the 3rd respondent dated 18.05.2022, is hereby quashed and there shall be a direction to the respondents to sanction the incentive increments to the



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petitioner and this process shall be completed, within a period of eight weeks from the date of receipt of copy of this order.

8. In the result, this writ petition stands allowed with the above terms.

No Costs.

06.02.2023
(2/2)

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ssr

To

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N. ANAND VENKATESH, J.

SSR

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(2/2)**