



W.P.No.15712 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2023

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.15712 of 2016
and W.M.P.Nos.13641 & 13642 of 2016

M. Balasundaram

... Petitioner

Vs.

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

2.The Chief Educational Officer,
Coimbatore District,
Coimbatore.

3.The District Educational Officer,
Pollachi,
Coimbatore District.

4.The Headmaster,
Government High School,
Panapatti – 641 201
Coimbatore District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to impugned proceedings issued by 1st respondent in Letter (Ms).No.129 School Education {Pa.Ka.5(2)} 2013-1 dated 17.07.2013 and to quash the same.

For Petitioner : Mr.S. Nedunchezhiyan

For Respondents : Mr.K.H. Ravikumar
Government Advocate

ORDER

In view of the Government Order in G.O.Ms.No.42 Education Department dated 10.01.1969, G.O.Ms.No.1024 School Education Department dated 09.12.1993 and G.O.(1D).No.18 School Education Department dated 18.01.2013, Secondary Grade Teacher or B.T. Assistant or Post Graduate Teacher would be entitled to get two incentive increments during the entire period of service as a teacher.

2. In the instant case, the petitioner herein was awarded with a second incentive increment for having qualified in M.Phil Degree as per G.O.(1D).No.18 dated 18.01.2013. Through the impugned Government



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Letter dated 17.07.2013, the respondents have now ordered that the benefits under G.O.(1D).No.18 dated 18.01.2013, will only have a prospective effect and therefore, have sought for recovery of the second incentive increment already granted.

3. The learned counsel for the petitioner submitted that when the Government Order in G.O.(1D).No.18, provides for grant of second incentive increment for possessing higher educational qualification, the same cannot be taken away by way of clarification through a letter.

4. I find some force in the submissions made by the learned counsel for the petitioner.

5. What has been ordered in G.O.(1D).No.18, cannot be given a go-by by way of clarification and the object of the Government Order, cannot be watered down through a letter. As a matter of fact, G.O.(1D).No.18 is in the mode of an amendment to an earlier G.O.Ms.No.1024 School Education Department dated 09.12.1993 wherein, the higher educational



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qualification of M.Phil and PhD were inserted along with M.Ed. Thus, the very reasoning given by the respondents in the impugned order that G.O.(1D).No.18 will have only a prospective effect, cannot be sustained, in view of the fact that this Government Order is only an expansion of the earlier existing G.O.Ms.No.1024 dated 09.12.1993. Even otherwise, as pointed out by the learned counsel for the petitioner, a Government Letter cannot overrule the Government Order. As such, the impugned order itself cannot be sustained.

6. Accordingly, the impugned Government Letter dated 17.07.2013 issued by the first respondent, is hereby quashed and the Writ Petition stands allowed. No costs. Connected miscellaneous petitions are closed.

03.01.2023

Speaking order
Neutral Citation: Yes
Index: Yes
Internet: Yes

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WEB COPY

To

- 1.The Principal Secretary to Government of Tamil Nadu,
School Education Department,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.The Chief Educational Officer,
Coimbatore District,
Coimbatore.
- 3.The District Educational Officer,
Pollachi,
Coimbatore District.



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M.S.RAMESH,J.

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