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W.P.No.5041 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.5041 of 2020

R.Vanitha
D/o.Ramu
Veeramangalam
Vadakarai Alathur (PO)
Thirukkarugavur (via)
Thiruvarur District 641 302

... Petitioner

/Vs/

1.State of Tamil Nadu
Rep. by its Principal Secretary
Department of School Education
Fort St. George
Chennai 9

2.The Director of School Education
O/o.The Director of School Education
DPI Campus
Chennai 6

3.The Joint Director of School Education (Higher Education)
O/o.The Joint Director of the School Education
DPI Campus
Chennai 6

4.The Chief Educational Officer
O/o.Chief Education Officer
Thiruvarur District
Thiruvarur



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5.The Head Master
Government Higher Secondary School
Munnavaikottai
Thiruvavarur District 600 129

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the entire records connected with the impugned order in A.T.M.U.N513/A3/2014 dated 24.09.2014 issued by the 4th Respondent and the consequential order dated 11.06.2019 in O.M.No.2654/A5/2019 issued by the 4th Respondent and quash the same consequently direct the 4th Respondent to grant approval for the M.Phil degree obtained by the Petitioner.

For Petitioner : Mr.Kavin Castro
for Mr.K.Thilageswaran

For Respondents : Mr.S.Nanmaran
Special Government Pleader

ORDER

The Petitioner who joined the M.Phil., degree without getting prior approval has filed this Writ Petition seeking to quash the impugned order passed by the fourth Respondent in A.T.M.U.N513/A3/2014 dated 24.09.2014 and consequential order dated 11.06.2019 in O.M.No.2654/A5/2019 and to direct the fourth respondent to grant approval of the M.Phil degree obtained by her.



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2.Heard Mr.Kavin Castro, learned counsel for Mr.K.Thilageswaran, learned counsel for the Petitioner and Mr.S.Nanmaran, learned Special Government Pleader for the Respondents.

3.The Petitioner has joined a part time M.Phil., course in the academic years 2013-15. The Petitioner applied to join the course during September 2013 and prior to that she had submitted her application for getting department permission on 02.08.2013. The said application has been returned on 26.11.2013 and it was re-presented subsequently through fourth and fifth Respondents. But the same was rejected on 24.09.2014. Once again, the application was resubmitted by her for ratification after completing the course but the same was rejected by proceedings dated 11.06.2019.

4.Mr.Kavin Castro, learned counsel for the Petitioner cited the earlier decision of this Court held in *The Joint Director of School Education (Higher Secondary) and others Vs. S.Vasugi and another (W.A.(MD).No.1124 of 2023)* dated 24.07.2023, in support of his contention that failure to get prior approval for doing higher studies is only an irregularity and that can be ratified. The Petitioner of that case who did not get prior permission to complete a degree course was allowed to get special increment for acquiring the higher



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qualification.

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5. In the instant case, even in the order dated 24.09.2014, in the reference it is shown that the Petitioner's application dated 02.08.2013, which was much prior to the course period.

6. As the Petitioner had directly sent the request to the third Respondent and it has been returned by the third Respondent to be sent back through proper channel. Even though G.O.Ms.No.200, Personnel and Administrative Reforms (A) Department, dated 19.04.1996 prescribes 15 days as a maximum time for disposing the permission seeking application for higher studies through part time basis, the office of the third Respondent had taken three months time just to turn the application. The fifth Respondent has re-sent the Petitioner's application along with the application submitted by three teachers to the fourth Respondent on 23.01.2014. The fifth Respondent further took two months time to resubmit the application and on which the fourth Respondent has rejected the same on 24.09.2014, which is nearly eight months from the date of re-submission of the application made through fifth Respondent. At each stage of the file huge delay is caused.

7. A person who wished to obtain permission before one month of the



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course would expect that it will be disposed at the earliest. As per

G.O.Ms.No.200, Personnel and Administrative Reforms (A) Department, dated

19.04.1996, such applications should be disposed within fifteen days.

8.In every communication the Petitioner's application is shown as dated 02.08.2013. All that a person like a Petitioner can do is to send an application for permission well in advance before joining the course. Since the Petitioner has proposed to join the course during the academic year 2013-15 and the applications were invited during September 2013, she had submitted her application to get permission on 02.08.2013. The course period is between 2013-15.

9.In fact the above G.O.Ms.No.200, Personnel and Administrative Reforms (A) Department, dated 19.04.1996 has been issued just to liberalise the process of obtaining prior permission from the head of office itself without waiting to get an order from the Head of the department. Even after the rules were relaxed, the Respondents did not rise up to the occasion and had chosen to adopt a pedantic approach. They sat over the application for months together and later blame the Petitioner that she did not obtain prior permission in time.

10.In fact, G.O.Ms.No.200, Personnel and Administrative Reforms (A)



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Department, dated 19.04.1996 states that if no order has been issued within a period of 15 days from the date of the application, it shall be deemed that the Head of the Department/Head of the Office has granted permission for joining the course. The third Respondent office kept the file pending without any orders for nearly three months. As per the above G.O., if no order is passed within a period of 15 days either by granting/rejecting/or even by returning that should be only considered as “*No order passed*”. Hence, the Petitioner is guarded with the deemed permission authenticated under the above G.O.Ms.No.200, Personnel and Administrative Reforms (A) Department, dated 19.04.1996. Hence, her part time M.Phil., degree cannot be considered as done without permission.

11.The Petitioner had successfully completed her M.Phil., degree in first class with A⁺⁺ grade. By virtue of the impugned order dated 11.06.2019, the third Respondent has issued proceedings for rejecting even the ratification.

12.In fact, the Petitioner need not even seek ratification in view of the G.O.Ms.No.200, Personnel and Administrative Reforms (A) Department, dated 19.04.1996. She could have claimed that she had got the benefit of deemed permission under the G.O.Ms.No.200, Personnel and Administrative Reforms



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(A) Department, dated 19.04.1996. The Petitioner was polite enough to get a ratification by sending a request. But the Respondents without taking accountability for the delay on their part, had passed the impugned order as though the Petitioner has caused the delay.

13. Time and again, it is held by this Court that the claim of teachers for incentive increment cannot be rejected on the ground that the teacher concerned had not obtained prior permission. Mr. Kavin Castro, learned counsel for the Petitioner relied on the orders passed in *The Joint Director of School Education (Higher Secondary) and others Vs. S. Vasugi and another (W.A.(MD).No.1124 of 2023)* dated 24.07.2023, in support of the above position. In the said order, it is held as under:

“3. This Court find that the issue is no-more res integra in view of the several judgments on this issue holding that the claim of teachers for incentive increment cannot be rejected on the ground that the concerned teacher had not obtained prior permission of the authorities for undergoing higher education. Since the issue has been settled by precedents, this Court is unable to countenance the arguments advanced by the learned counsel for the appellants. It is true that there are several Government Order which have insisted the requirement of permission of the educational authorities for a teacher to undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher



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qualification is to encourage the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service will have to obtain prior permission as per the Government Orders . Further it is to be noted that acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity and that will not entitle the respondents to reject the benefit to the teachers.”

14. But the Respondents without being aware of the legal position, had rejected the application seeking permission of the Petitioner which is arbitrary and unlawful.

In view of the reasons stated above, this Writ Petition is allowed and the impugned order in A.T.M.U.N513/A3/2014 dated 24.09.2014 issued by the 4th Respondent and the consequential order dated 11.06.2019 in O.M.No.2654/A5/2019 issued by the 4th Respondent are set aside and the fourth Respondent is directed consider the M.Phil degree obtained by the Petitioner, through part time mode as the degree through deemed permission and pass appropriate orders to accord her the attendant, monetary/service benefits for the same within a period of six weeks from the date of receipt of a copy of this order. No costs.



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Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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To

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State of Tamil Nadu
Department of School Education
Fort St. George
Chennai 9

2.The Director of School Education
O/o.The Director of School Education
DPI Campus
Chennai 6

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