



W.P.No.20782 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.20782 of 2018
and
W.M.P.No.24409 of 2018

V.Vijaya

... Petitioner

Vs.

1. The Regional Accounts Officer,
(Audit) Department of School Education
Coimbatore-641 001.
- 2 The Director,
Directorate of School Education,
Chennai-600 006.
3. The Chief Educational Officer,
Namakkal,
Namakkal District.
4. The Head Master,
Government High School,
Vettambadi,
Namakkal District.



W.P.No.20782 of 2018

5. The Registrar,
Vinayaka Missions University,
Salem-636 308.

6. University Grants Commission
Rep. by its Secretary,
Bahadur Shah Zafar Marg,
New Delhi-110 002.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents 1 to 4 from initiating action to recover the payment of incentive increments paid from the month of January 2013 for qualifying M.Phil. Degree granted by the 5th respondent whereupon direct the respondents 1 to 4 to continue the payment of incentive increment in future.

For Petitioner : Ms.Nalini Chidambaram
Senior Counsel
for Mrs.C.Uma

For Respondents : Mr.L.S.M. Hasan Fizal
Additional Government Pleader
for R1 to R4

No appearance for R5

Mr.P.R.Gopinathan for R6



W.P.No.20782 of 2018

ORDER

WEB COPY

This Writ Petition has been filed to forbear the respondents 1 to 4 from initiating action to recover the payment of incentive increments paid from the month of January 2013 for qualifying M.Phil. Degree granted by the 5th respondent whereupon direct the respondents 1 to 4 to continue the payment of incentive increment in future.

2.It is the case of the petitioner that the petitioner was appointed as B.T. Assistant at Panchayat Union Middle School, Govindarasapalayam. After getting the employment, the petitioner got permission from the Department and completed M.Phil., degree from the 5th respondent. The 1st respondent held that there is no impediment to grant incentive increments for the higher degrees granted by the 5th respondent. Therefore, the petitioner was granted with one incentive increment for passing M.Phil. with effect from 18.01.2013 as pr the proceedings of the Assistant Elementary Educational Officer, Namagiripettai. The 1st respondent have conducted audit for the audit year 2016-2017 and filed his report, wherein the 1st respondent has raised an objection with regard to the incentive granted for



W.P.No.20782 of 2018

WEB COPY

qualifying M.Phil. Degree from the 5th respondent on the ground that it was not recognized by the University Grants Commission and the State of Tamil Nadu. The 1st respondent has sent a communication to the 3rd respondent, no action was taken for recovery at the instance of the 4th respondent since no individual order of recovery has been issued to the teachers concerned. Therefore, no recovery action has been taken. Further, the 4th respondent has orally directed the petitioner to repay the incentive paid for passing M.Phil, Degree, failing compliance, the 4th respondent has threatened to order recovery from the salary of the petitioner. Hence, this Writ Petition.

3.The learned counsel for the petitioner would draw the attention of this Court to a similar matter in W.A.Nos.2328 of 2018, etc.,, dated 04.08.2023 wherein in respect of similar set of facts, this Hon'ble Court has

passed the following orders:

“35. In the result, the following orders are



WEB COPY



W.P.No.20782 of 2018

passed in these Writ Appeals:

? That the impugned order passed by the writ Court dated 06.09.2018 is set aside. As a sequel, the impugned order that was challenged before the Writ Court in the respective petitions is also set aside to the extent that those teachers who had studied in the Vinayaka Mission's University during the relevant point of time i.e., 2007 to 2009 since had acquired the qualification during the period which the University also enjoyed the approval or recognition from the DEC, IGNO, the said objection raised by the audit Department would not be sustained. Therefore, on that *ground, the incentive increment already allowed to these teachers* need not be disturbed. If the increment already been allowed to these teachers have been cancelled or stopped by virtue of the order, which is impugned herein, the same shall be restored and the arrears to that effect shall be calculated and be paid to the teachers/appellants. To that extent, all these writ appeals are allowed. No costs. Connected miscellaneous petitions are



W.P.No.20782 of 2018

closed.”

She would further submit that similar order may be passed in this Writ Petition also.

4.The learned Additional Government Pleader would submit that the respondents-Government accepted the recommendation made in the decision in respect of paragraph -35 of the above said order.

5.This Court also perused the above decision and heard the submissions made on either side. The identical issue has been dealt with in the batch of Writ Appeals in W.A.Nos.2328 of 2018 and etc batch dated 04.08.2023 by the Division Bench of this Court. Therefore, the identical issue was decided in favour of the teachers and it is also applicable to this petitioner. Therefore, the petitioner is entitled to the payment of incentive increments.

Accordingly, this Writ Petition is allowed. No costs. Consequently,



W.P.No.20782 of 2018

connected miscellaneous petition is closed.

01.11.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
mps

To

1. The Regional Accounts Officer,
(Audit) Department of School Education
Coimbatore-641 001.
- 2 The Director,
Directorate of School Education,
Chennai-600 006.
3. The Chief Educational Officer,
Namakkal,
Namakkal District.

4. The Head Master

7/9



W.P.No.20782 of 2018

WEB COPY

Government High School,
Vettambadi,
Namakkal District.

5. The Registrar,
Vinayaka Missions University,
Salem-636 308.
6. The Secretary,
University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi-110 002.

V.BHAVANI SUBBAROYAN, J,



WEB COPY



W.P.No.20782 of 2018

mps

W.P.No.20782 of 2018
and
W.M.P.No.24409 of 2018

01.11.2023