



WEB COPY



W.P.No.23516 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.23516 of 2022
and W.M.P.No.22482 of 2022

S. Hepzi Bai

... Petitioner

Vs.

- 1.Principal Secretary,
Education Department,
Fort St. George,
Chennai – 600 009.
- 2.Director of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.
- 3.The Chief Educational Officer,
Office of the Chief Educational Officer,
Thiruvallur – 600 001.
- 4.District Elementary Education Officer,
Ambattur, @ Ambattur Govt. Girls High School,
Chennai – 600 077.
- 5.Block Education Officer,
Block Education Office,
Villivakkam Union @ Ambattur,
Chennai – 600 077.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for records in Na.Ka.No.652/A1/2021 dated 24.02.2022 on the file of the fifth respondent and quash the same and direct the respondents to pay Incentive as per the G.O.Ms. 1023 of 1993 (Education, Science & Technology Department) dated 09.12.1993 to the petitioner, as per the petitioner's representation dated 29.10.2014 and a reminder dated 08.11.2021.

For Petitioner : Mr.V. Chandrakanthan

For Respondent : Mr.P. Gurunathan,
Additional Government Pleader

ORDER

Under G.O.Ms.No.1023 of 1993, (Education, Science and Technology Department) dated 09.12.1993, Government Teachers would be entitled for 3rd incentive increments for possessing higher qualification. The petitioner had passed her M.Ed Degree Certificate from Annamalai University in May 1992. Apparently, she was eligible for 3rd incentive increment since she had completed her higher degree qualification prior to issuance of the subsequent Government Order, which restricts the incentive increment to 2. The fifth respondent through the impugned order dated 24.02.2022, had rejected the



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petitioner's request stating that she would be entitled for only two incentive increments. Challenging the same, the present Writ Petition has been filed.

2. The petitioner was promoted to the post of B.T. Assistant on 08.06.2005. In view of G.O.Ms.No.1023 of 1993 dated 09.12.1993, she would be entitled to receive 3rd incentive increment, had she completed the M.Ed. Degree prior to 09.12.1993. The petitioner has produced the Degree Certificate of her M.Ed., which evidences that she had passed the M.Ed Examination in the month of May 1992 itself. In view of her promotion as B.T. Assistant, she would be entitled for 3rd incentive increment. As such, the reason assigned by the fifth respondent in the impugned order, cannot be sustained.

3. Learned Additional Government Pleader appearing for the respondents placed reliance on the averments made in the counter-affidavit and submitted that there is a suitable delay in claiming 3rd incentive increment and therefore, the petitioner is not entitled for the same.



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4. I am not in agreement with such a submission. This is not the reason assigned in the impugned order. It is a settled proposition that the authorities cannot improve their case by filing a counter-affidavit and whatever reason has been assigned in the impugned order alone, requires to be countenanced.

5. In the light of the above findings and observations, the impugned order dated 24.02.2022 passed by the fifth respondent, is hereby quashed. Consequently, there shall be a direction to the fourth respondent herein, to pass appropriate orders, granting the incentive increment to the petitioner, for possessing M.Ed Degree which she had passed in May 1992, within a period of four (4) weeks from the date of receipt of a copy of this order.

6. With the above directions, the Writ Petition stands allowed. No costs. Connected miscellaneous petition is closed.

21.06.2023

Index: Yes/No
Speaking order/Non-speaking order
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M.S.RAMESH,J.

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