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W.P.No.14296 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.14296 of 2016

K.Jasmine Nirmala

... Petitioner

-Vs-

- 1 The Secretary to Government
School Education Department Fort St. George
Chennai-9.
- 2 The Director of School
Education College Road Chennai-6.
- 3 The District Educational Officer
Coimbatore Coimbatore District.
- 4 The Headmaster
Government Higher Secondary School
Ashokapuram Coimbatore-22.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records of the fourth respondent in his proceedings Na.Ka. No.85/ 2017 dated 17.5.2017 and quash the same and direct the respondents to sanction incentive increments for acquiring M.Phil qualification in the Cadre of PG Assistant by extending the benefits of the G.O.Ms. Nos.209 and 15 School Education Department dated 8.7.2010 and 28.3.2013 issued by the first respondent to the petitioner.



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For Petitioner : Mr.S.Kamadevan
For Respondent : Mr.V.Nanmaran
Additional Government Pleader
(for Respondents 1 to 3)

ORDER

The writ petition has been filed in the nature of a Certiorarified Mandamus calling for the records of the fourth respondent in his proceedings Na.Ka. No.85/ 2017 dated 17.5.2017 and quash the same and direct the respondents to sanction incentive increments for acquiring M.Phil qualification in the Cadre of PG Assistant by extending the benefits of the G.O.Ms. Nos.209 and 15 School Education Department dated 8.7.2010 and 28.3.2013 issued by the first respondent to the petitioner.

2. The petitioner was working as P.G.Assistant (Chemistry) in the 4th respondent School. She was paid two increments for obtaining qualifications in M.Ed and M.Sc (Post Graduation). The petitioner had subsequently completed M.Phil and therefore seeks third increment to be granted.

3. I must appreciate the stand taken by the learned counsel for the petitioner Mr.S.Kamadevan, who readily stated that the issue had already been addressed by the Full Bench of this Court, wherein such grant of third increment had been denied on a specific reference to the Full Bench. After



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the reference had been answered, the matter had been referred back to a Division Bench. Let me extract the order of the Division Bench in **W.P.No.16000 of 2015 (R.Rajamanickam -vs- The Secretary to Government and others)** dated 10.10.2022 in entirety.

" *The Writ Petition has been posted upon a reference being answered by a Full Bench of this Court in WA No.3674 of 2019 etc. batch dated 29.04.2022. A reference was made to a Full Bench in view of the conflict between two Division Bench judgments of this Court, one in WA (MD) Nos.701 and 769 of 2015 etc., dated 15.07.2015 (The Director of School Education and others v. S.Amalraj) holding that a teacher is entitled to a third set of incentive increment on account of acquiring higher qualification and the other in WA No.1664 of 2016 dated 29.06.2018 (The Director of School Education and others v. V.Dhanapal) taking a contrary view and concluding that a teacher, during the entire tenure of service, would be entitled to only two sets of incentive increments and nothing more.*

2. Upon a reference being made, the Full Bench had answered the issue concluding that the judgment of the Division Bench in WA. No.1664 of 2016 dated 29.06.2018 reflects the correct position of law. After considering the various Government Orders issued on the subject, the Full Bench had observed as follows:

"?12. A perusal of the above order puts the issue beyond pale of doubt that as per the policy of the Government, a teacher for the entire period of his/her service shall be granted two incentives (four increments) only. Therefore, there cannot be any dispute regarding the fact that a Secondary Grade Teacher or



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B.T.Assistant or Post Graduate Teacher during the entire period of service as a teacher, is entitled to get only two incentive increments. Taking note of the same only, the Division Bench in W.A.No.1664 of 2016 dated 29.06.2018 (The Director of School Education and others v. V.Dhanapal) has categorically held that the acquisition of an M.Phil. qualification does not entitle a teacher for a third incentive increment, in view of G.O.Ms.No.1024, Education, Science and Technology Department, dated 09.12.1993 restricting the number of incentive increments to two and therefore, any teacher is not entitled to a third incentive increment.?"

3. An attempt is made by Mr.Sasidharan and Mr.Ganesan, appearing for some of the teachers to contend that those teachers who have obtained the additional qualification prior to 09.12.1993, namely the date on which G.O.Ms.Nos.1023 and 1024 came to be issued would be entitled to incentive increments, since the number of increments was limited only by the said two Government Orders. We are unable to accept the said contention of the learned counsel appearing for some of the respondents because the Full Bench has categorically held that any teacher during the entire period of his/her tenure would be entitled only to two sets of incentive increments.

4. In view of the categorical pronouncement of the Full Bench extracted above, we cannot take any other view. Hence the Writ Petition filed by the petitioner seeking incentive increments will stand dismissed. There shall be no order as to costs. "



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4. The dictum laid down is binding on this Court. The relief sought for by the petitioner cannot be granted. The writ petition stands dismissed. No costs.

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Index : Yes/No
Internet : Yes/No
KST

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C.V.KARTHIKEYAN, J.

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