



W.A.No.3711 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2023

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE G.ARUL MURUGAN

W.A.No.3711 of 2019
and
C.M.P.No.23606 of 2019

- 1.The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.
 - 2.The Chief Educational Officer,
Tiruvannamalai District,
Tiruvannamalai.
 - 3.The Headmaster,
Government Boys Higher Secondary School,
Mallavadi,
Tiruvannamalai District.
- ... Appellants

Vs.

S.Meenakshi Sundaram ... Respondent

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying
to set aside the order dated 20.12.2013 in W.P.No.34886 of 2013.

For Appellants : Mr.K.V.Sajeev Kumar
Special Government Pleader
For Respondent : No appearance



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JUDGMENT

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This intra Court appeal has been directed against the order passed by the Writ Court dated 20.12.2013 made in W.P.No.34886 of 2013.

2. The respondent was appointed as a Secondary Grade Teacher on 28.07.1995 and thereafter he was promoted to the post of B.T. Assistant on 14.08.2001, then promoted to the post of P.G. Assistant in Commerce on 28.12.2005.

3. He had acquired the degree of B.Sc. & B.Ed., for which he was sanctioned the incentive increment with effect from 12.08.1996 while he was working as Secondary Grade Assistant, thereafter he acquired further qualification of M.A., for which he got second incentive increment with effect from 12.08.1996, thereafter he acquired the qualification of M.Phil. in February, 2008 for which he sought for third incentive increment, which was negated by the authorities by order dated 11.12.2013, which was under challenge before the Writ Court, where, the learned Judge who heard the writ petition allowed the said writ petition through the impugned order.



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4. Assailing the said order, the learned Special Government Pleader would submit that, the issue raised in this writ appeal has already been covered by a Full Bench decision of this Court in W.A.No.1664 of 2016 dated 29.06.2018. The said Full Bench has held that, the employee was not entitled to get third incentive increment.

5. We have considered the said submission made by the learned Special Government Pleader for the appellants.

6. As has been rightly pointed out by the learned Special Government Pleader for the appellants, the issue raised in this appeal is no more *res integra*. As the Full Bench of this Court in the said writ appeal has held that, the employee is not entitled for third incentive increment. Following the said judgment, in a recent decision of the Division Bench, where one of us (R.S.K.J.) is a party in W.A.No.3603 of 2019 in the matter of *The Director of School Education, DPI Campus, College Road, Chennai and others Vs. K.Sudhakar*, by order dated 29.08.2023, has passed the following order:

"2. It is submitted that the issue involved in this appeal is no longer res integra since the Full Bench of this



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Court had already upheld the Division Bench judgment made in W.A.1664 of 2016 dated 29.06.2018 which had held that the teacher would be entitled to only two incentive increments.

3. Admittedly, in this case the respondent herein had already been granted two incentive increments for possessing higher qualification viz., B.Lit. B.Ed. and M.A. Degree. Even in the affidavit filed in support of the writ petition, he has admittedly sought for the third incentive increment for possessing M.Phil degree.

4. In view of the admitted fact that the respondent had only sought for third incentive increment, which he is not entitled, in view of the Full Bench judgment of this Court dated 29.04.2022 made in W.A.No.3674 of 2022 etc. batch, the order passed by the learned Single Judge would have to be necessarily set aside.

5. In fine, the Writ Appeal is allowed and the order passed by the learned Single Judge dated 26.02.2014 is set aside. However, there shall be no order as to costs.



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Consequently, connected miscellaneous petition is closed."

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7. The facts of the present case also squarely covered by the facts of the said case as the present respondent already admittedly received two incentive increments and he sought for the third incentive increment for his acquired qualification of M.Phil, therefore for which he is not entitled to as per the law declared by the Hon'ble Full Bench of this Court as stated supra.

8. Therefore the judgment impugned is liable to be interfered with. With the result, the impugned judgment is set aside and the writ appeal is allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[R.S.K., J.] [G.A.M., J.]

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

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