



W.A.(MD) No.1352 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.A.(MD) No.1352 of 2023
and
C.M.P.(MD)No.10262 of 2023**

- 1.The State of Tamil Nadu,
Rep. by its Secretary to the Government,
School Education Department,
Fort. St. George, Chennai-600 009.
- 2.The Director of Elementary Education,
DPI Campus, College Road,
Chennai-600 006.
- 3.The District Educational Officer,
Thanjavur District, Thanjavur.
- 4.The Block Development Officer,
Peravurani, Pattukottai Taluk,
Thanjavur District.

: Appellants/Respondents

-vs-

A.Dhanalakshmi

: Respondent/Writ Petitioner

PRAYER: Writ Appeal has been filed under Clause 15 of Letters Patent to set aside the order, dated 23.09.2022 made in W.P.(MD)No.3067 of 2022 on the file of this Court.



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For Appellants : Mr.D.Sadiq Raja
Additional Government Pleader

For Respondent : Mr.V.R.Shanumuganathan

JUDGMENT

[Judgment of the Court was made by D.BHARATHA CHAKRAVARTHY, J.]

This Writ Appeal is directed against the order of the learned Single Judge, dated 23.09.2022 made in W.P.(MD)No.3067 of 2022. In the said writ petition, the order passed by the Block Educational Officer, dated 21.12.2021, cancelling the incentive increment granted to the respondent and ordering recovery was challenged. The writ petitioner was promoted as Middle School Headmaster on 02.06.2009 from the post of B.T. Assistant (Tamil). She thereafter, obtained permission and acquired B.Ed., degree in the year 2011, for which, she applied for incentive increment, which was also granted. By the impugned order, the said incentive increment was cancelled, because, the post of Headmaster Middle School itself was B.Ed Grade and B.Ed., being the essential qualification, no incentive increment can be granted. The learned Single Judge agreed with the appellants/respondents on the



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said issue and refused the relief of the petitioner, but however quashed the order inasmuch as it ordered the recovery of the amount already paid. Aggrieved by the portion of the order disallowing the recovery, the respondents are on appeal before this Court.

2. We have heard Mr.D.Sadiq Raja, the learned Additional Government Pleader appearing on behalf of the appellants and Mr.V.R.Shanumuganathan, the learned counsel appearing on behalf of the respondent and perused the material records of the case.

3. It can be seen that the incentive increment was granted by the appellants/respondents by mistake whether to consider the subsequent acquisition of the qualification namely, B.Ed., degree as a higher qualification as already she was a B.T. Assistant (Tamil) and was promoted to the post of Middle School Headmaster. In that view of the matter, subsequently in view of the interpretation made in other cases, when the Block Educational Officer comes to the conclusion that the amount has been erroneously paid, the case squarely falls on more than one count with reference to impermissibility of recoveries as indicated



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by the Hon'ble Supreme Court of India in ***Rafiq Masih case***¹ and therefore, there is absolutely no merit in this writ appeal and is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]

23.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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¹ (2014) 8 SCC 883



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