



W.P.(MD)No.2719 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.2719 of 2020

and

W.M.P(MD) Nos.2317 & 2348 of 2020

J.Shanthi Pushpakumari
Headmistress
TELC Primary School,
Venkittankurichi,
Paramakudi,
Ramanathapuram District.

: Petitioner

Vs.

- 1.The Director of Elementary Education,
College Road,
Chennai-006
- 2.The District Educational Officer,
O/o.The District Educational Office,
Paramakudi,
Ramanathapuram District.



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3.The Block Educational Officer - I,
O/o.The Block Educational Office,
Paramakudi - SB401,
Ramanathapuram District.

4.The Correspondent
TELC Primary School,
Venkittankurichi,
Paramakudi,
Ramanathapuram District.

: Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorarified Mandamus to call for the
records relating to the impugned proceedings issued by the 3rd respondent
in A.The.MU.No.1845/A2/2019 dated 10.9.2019 and quash the same as
illegal and consequentially to direct the respondents to pay the incentive
increments to the petitioner for the higher educational qualification of MA.
Degree acquired by the petitioner.

For Petitioner : Mr.S.Mohamed Suhail,
for M/s.Ajmal Associates

For Respondents : Mr.S.Saji Bino - for R1 to R3
Special Government Pleader



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ORDER

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This writ petition has been filed to quash the impugned proceedings issued by the 3rd respondent in A.The.MU.No.1845/A2/2019 dated 10.9.2019 and consequently to direct the respondents to pay the incentive increments to the petitioner for the higher educational qualification of MA. Degree acquired by the petitioner.

2. The petitioner was initially appointed as a Secondary Grade Teacher on 29.04.1998 in the School run by TELC. At the time of joining service, the petitioner was possessed with the qualification in B.A. History and B.Ed degree. Thereafter, the petitioner was promoted as Headmistress in the year 2006, in the very same school and the petitioner had been working to the utmost satisfaction of the Superiors and during his tenure of employment, the petitioner acquired M.A. History in the year 2013, after getting appropriate approval from the Management as well as the Educational Authorities. Thereafter the petitioner preferred a representation to the third respondent for grant of incentive increment for acquiring higher



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qualification. However, the third respondent has passed the impugned order, dated 10.09.2019 rejecting the proposal of the School for granting incentive increment to the petitioner on the ground that the teacher who possessed with qualification B.T Assistant qualification appointed as Secondary Grade Teacher, is not entitled to incentive increment.

3. Further, the case of the petitioner is that admittedly the petitioner has given an undertaking to the effect that the petitioner would not claim any incentive increment for possession of B.A. and B.Ed. degree. However, the petitioner is entitled for incentive increment for acquiring higher qualification. Hence the rejection order passed by the respondent is bad in law. Challenging the same, the present writ petition is filed.

4. The learned counsel for the petitioner would submit that admittedly at the time of appointment, the petitioner had forgo the incentive increment for possessing qualification BA and B.Ed degree and the same cannot be put against the petitioner while, she acquiring the higher qualification of M.A. and hence, the petitioner is entitled to receive



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incentive increment for acquiring higher qualification prior to 2019 and the petitioner acquired higher qualification in the year 2000 which cannot be denied and the issue that arises in the present writ petition is already covered by the decision of the Division Bench of this Court in W.A.(MD) No.895 of 2013 etc., batch. Accordingly, he prayed for allowing the writ petition.

5. Per contra, the learned Special Government Pleader appearing for the respondents submitted that at the time of petitioner's appointment in the Education department, she possessed B.A. Degree in History subject and later on, during her service, she passed M.A. degree. Earlier the petitioner approached the respondents sought for additional incentive increment for higher qualification and the same was rejected stating that the petitioner had already forgo the incentive increment for acquiring higher qualification. Hence, he prayed for dismissal of the writ petition.

6. Heard the learned counsel on either side and perused the materials available on record.



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7. The facts in the present case are not in dispute. Admittedly, the petitioner had possessed the qualification of B.A. History and B.Ed. degree. Earlier, she was appointed as a Secondary Grade Teacher with B.T qualified teachers. At the time of entering into the service, the petitioner has given willingness to forgo the incentive increments for B.A. History and B.Ed degree and subsequently, the petitioner acquired M.A. History, for which, she made a claim for awarding incentive increment as per Government Order. However, the same was rejected on the ground that the petitioner had already forgo the incentive increment for acquiring higher qualification and thereafter the present writ petition is filed. It is admitted that at the time of appointment, the petitioner had forgo the incentive increments for acquiring B.A. B.Ed. degrees and after entering into service, the petitioner acquired higher qualification in M.A. History and M.A. History is related to the subject of Social Science. Hence, the respondents cannot deny that the higher qualification is not related to the subjects for class 1 to 5. However, the only ground on which, the petitioner's claim was rejected is that the petitioner had already forgo the incentive increment for



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acquiring higher qualification, however, that is not applicable to the petitioner, since she forgo the incentive increment only for B.A. and B.Ed. and not for M.A. degree and subsequent to his employment, she acquired M.A. degree and hence, she is entitled for incentive increment as per the Government Order invoked and the similar issue came up for consideration before the Division Bench of this Court in W.A.(MD) No.895 of 2013 and the relevant portion of the order reads as follows :

"3.The reason for refusing the incentive increment is on ground that the writ petitioners when they were appointed had given an undertaking that they will not claim incentive increment when they acquire higher qualification.

4.Similar issue was considered by the Division Bench in the case of State of Tamil Nadu v. Louis in W.A.(MD)No.511 of 2011 dated 27.06.2011. After considering the objections raised by the Government, which is similar to objections raised in these appeals, the Court pointed out that the respondent therein, had acquired higher



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qualification M.Sc., and M.Ed., and acquiring higher education will not prevent the writ petitioners from claiming the incentive increment for higher qualification. Therefore, the order passed by the writ Court, granting relief to the teacher was affirmed and the appeal filed by the State was dismissed. The State preferred a special leave petition before the Hon'ble Supreme Court in Slp.C.C.No.13056 of 2014, which was dismissed by an order dated 25.08.2014. It is seen that the judgment rendered by the Division Bench has been implemented by the Government in G.O.Ms.No. (3d) No.13 School Education Department, dated 06.02.2015. The writ Court, took into consideration, the decision of the Division Bench in the case of Premkumari v. State of Tamil Nadu (2008 (5) MLJ 1349), while granting relief to the writ petitioners."

In view of the categorical decision rendered by the Division Bench of this Court, the same benefit shall also be extended to the petitioner.



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8. Accordingly, the writ petition is allowed and the impugned order is set aside. The respondent is directed to grant incentive increment to the petitioner for acquiring higher qualification in M.A. degree, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

10.01.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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M.DHANDAPANI, J.

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