



W.P.(MD)No.2473 of 2023

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 08.02.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**W.P.(MD)No.2473 of 2023**

P.Murugaiyan

... Petitioner

**Vs.**

1. The Chief Educational Officer,  
Office of the Chief Educational Officer,  
Pudukkottai,  
Pudukkottai District.
2. The District Educational Officer,  
Office of the District Educational Officer,  
Pudukkottai,  
Pudukkottai District.
3. M.Narayanan Chettiar High School,  
Represented by its Secretary,  
Koppanapatti - 622 401,  
Pudukkottai District.

... Respondents

**PRAYER :** Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents to grant incentive increment to the petitioner for acquiring B.Ed., Degree and M.A.Degree in the light of the judgment in Director of Elementary



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Education, Chennai vs. G.Vijayalakshmi and another reported in (2015) 6 MLJ 315 within a time period stipulated by this Court.

For Petitioner : Mr.T.Aswin Rajasimman  
for M/s.Lajapathi Roy & Associates

For Respondents : Mr.J.Ashok  
Addl. Govt. Pleader for R1 and R2

### ORDER

This Writ Petition has been filed for a direction to the respondents to grant incentive increment to the petitioner for acquiring B.Ed., Degree and M.A.Degree, in the light of the judgment in the case of *Director of Elementary Education, Chennai Vs. G.Vijayalakshmi and another* reported in (2015) 6 MLJ 315 within a time frame that may be stipulated by this Court.

2. The case of the petitioner is that the petitioner was appointed as Secondary Grade Teacher on 02.04.1990 in the third respondent School, which is a Non-Minority Government Aided School. While he was serving as Secondary Grade Teacher, he obtained prior permission from the



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Secretary of the School and completed B.A.(History) Degree in the year 2007 and M.A.Degree in the year 2010 and thereafter, completed B.Ed., Degree in the year 2016. Hence, the petitioner is entitled for two incentive increments as per the Government Order in G.O.(Ms)No.42, School Education Department, dated 10.01.1969. Though he is entitled for two set of incentive increments for acquiring B.Ed., Degree and M.A.Degree, he is not granted with the incentive increments on the ground that he has not obtained prior permission for acquiring higher qualifications from the Competent Authority. Further, in a catena of decisions, this Court held that there is no need for getting prior permission for higher studies. Hence, the petitioner has submitted a detailed representation on 21.01.2023 and the same has not been considered. Therefore, the petitioner has filed the present Writ Petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that it would suffice, if the respondents are directed to consider the representation of the petitioner, dated 21.01.2023, on merits and in accordance with law, within a specified period in terms of clarificatory order



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issued by the Government in Clause 7 of G.O.(Ms)No.116, Personnel and Administrative Reforms (FR-IV) Department, dated 15.10.2020. Accordingly, he prayed for appropriate orders.

4. Per contra, the learned Additional Government Pleader appearing for the respondents would submit that already, the State Government have taken a policy decision that the scheme of sanction of advance increment for acquiring higher qualification in all Departments and all orders issued by all Departments for sanction of advance increment for possessing higher qualification, as a whole, be cancelled / dispensed with immediate effect from 10.03.2020 onwards. However, in the cases of Government Servants, who have acquired higher qualification prior to the Government Order, if they made application at the relevant point of time, if no order was passed, then, they are entitled for incentive increments. Further, if the incentive increment is granted, the bill was not submitted to the concerned Department, then it may be processed in terms of the clarificatory order issued by the Government. However, in the present case, though the petitioner had acquired higher qualification in the year 2007,



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2010 and 2016 respectively, even till 2020, the petitioner has not taken any steps to acquire incentive increments from the Department as per the said Government Order. Hence, the prayer sought for in the Writ Petition cannot be granted.

5. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

6. The facts in the present case are not in dispute. Admittedly, the petitioner has entered into service as Secondary Grade Teacher in the year 1990. Thereafter, he obtained prior permission from the School and acquired higher qualifications in the year 2007, 2010 and 2016 respectively. Though non obtaining prior permission from the Competent Authority is not a bar for granting the incentive increments as per the subsequent decisions rendered by this Court, however, the fact remains that the petitioner has lastly acquired higher qualification, i.e., B.Ed., in the year 2016 and till G.O.(Ms).No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020 is passed, the petitioner has not taken any



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steps to obtain incentive increments and the said Government Order makes it clear that the Government cancelled for providing incentive increments for all Departments including the Education Department. Further, the clarificatory order issued by the Government was on 15.10.2020, however, the petitioner has made a representation for acquiring incentive increments on 21.01.2023 and the said representation is hit by delay and laches and hence, the prayer sought for in the Writ Petition cannot be granted.

7. Accordingly, this Writ Petition is dismissed. No costs.

**08.02.2023**

NCC: Yes / No  
Index : Yes / No  
Speaking Order : Yes / No

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**M.DHANDAPANI,J.**

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