



W.P.(MD)No.4305 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.4305 of 2020

and

W.M.P.(MD)No.3622 of 2020

J.N.Nirmala Devi

: Petitioner

Vs.

The Block Educational Officer
Tuticorin Urban - (Levinchipuram
Municipal Middle School Campus),
Tuticorin
Tuticorin District.

: Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records order of the respondent dated 31.10.2016 quash the same and consequently direct the respondent to grant incentive to the petitioner as per his proceedings, dated 13.04.2015.



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For Petitioner : Mr.A.Srinivasan
For Respondent : Mr.S.Saji Bino,
Special Government Pleader

ORDER

This writ petition has been filed to quash the order of the respondent dated 31.10.2016 and consequently direct the respondent to grant incentive to the petitioner as per his proceedings, dated 13.04.2015.

2. The learned counsel for the petitioner submitted that the petitioner joined service in the St. Ignatius Elementary School, Ignasiyarpuram, Tuticorin District as a Secondary Grade Teacher in the year 2007. Even at the time of joining service, the petitioner finished B.A. Economics degree and subsequently, studied M.A. Economics with proper permission from the authorities and also completed B.Ed., degree in the year 2014. The petitioner approached the respondent for granting incentive increments, which has been granted to the similarly placed person and also re-fixed her salary based on the incentive increment, which she is entitled to. Accordingly, the respondent vide proceedings, dated 13.04.2015 fixed



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her salary by granting incentive increment from 01.06.2014. The respondent fixed the incentive increment in terms of G.O.Ms.No.42 and verified her qualification and the veracity of her claim with regard to the permission from the management for pursuing her service and found that the same was true which was acknowledged by her on 16.10.2014. The respondent has sanctioned the incentive increment on 13.04.2015, however, to the shock and surprise, the respondent vide impugned proceedings, dated 31.10.2016 has returned the service register to the correspondent, by relying on the proceedings of the Director of Elementary Education, dated 24.08.2016 and cancelled the sanction order, dated 13.04.2015. Challenging the same, the present writ petition is filed.

3. The learned counsel for the petitioner submitted that admittedly the petitioner was working as a Secondary grade Teacher in Class 1 to 5 and she acquired higher qualification in B.A. Economics, M.A., Economics and B.Ed. degree and earlier, the respondent considered the petitioner's qualification and the said qualification is useful and beneficial to the student studying in class 1 to 5, granted incentive increment in favour of the



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petitioner which was subsequently, cancelled by way of the impugned order, is not sustainable one. Before cancelling the order, the respondent has not given any opportunity to the petitioner to substantiate her claim and without providing opportunity, the respondent hurriedly passed the impugned order, which is in clear violation of principles of nature justice. Accordingly, he prayed for allowing the writ petition.

4. The learned Special Government Pleader appearing for the respondent submitted that the very same issue came up for consideration in the Division Bench of this Court, wherein, the Division Bench of this Court categorically held that if the higher qualification acquired by the teachers is not beneficial to the students studying class 1 to 5, they are not entitled for any incentive increment and when the Division Bench in categorical terms held as against the petitioner and hence, the impugned order cannot be interfered with. Accordingly, he prayed for dismissal of the writ petition.

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



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6. The facts in the present case are not in dispute. Admittedly, the petitioner entered into service as a Secondary Grade Teacher teaching class 1 to 5 and she acquired higher qualification i.e. B.A. Economics, M.A. Economics and B.Ed. degree. It is also admitted fact that the respondent granted incentive increment in favour of the petitioner on 13.04.2015 for acquiring B.A. Economics and M.A. Economics. However, subsequently, the said incentive increment granted to the petitioner was cancelled vide impugned order, dated 31.10.2016 on the ground that the petitioner has not acquired the higher qualification in the related subject useful to the students studying in class 1 to 5 in the Elementary School and the very same matter was came up for consideration before the Division Bench of this Court in W.A.(MD) No.910 of 2022 in **R.Sakthivel Vs. The Secretary to Government, Education Department and others** and the Division Bench of this Court held as follows :

"13. The appellant submitted that the object of granting incentive increment is to lift the morale of the teachers. But the government states



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that the object of granting incentive increment is to encourage the Teachers to qualify themselves, so that their qualification would be beneficial to the students. In the present case the petitioner was working as Secondary Grade Teacher taking class for students from 1 to 5 standards and the qualification of M.Sc. Physics would not be beneficial to the students studying in the standards 1 to 5. Therefore, the Government is right in denying the incentive increment for higher qualifications when the higher qualification is not beneficial for the students studying in 1 to 5 standards."

7. Applying the ratio laid down by the Division Bench of this Court, the syllabus for class 1 to 5 students is Tamil, English, Maths, Science and Social Science. However, B.A. Economics, M.A. Economics are not related to subjects to the students studying classes 1 to 5 and the same is not beneficial to the students studying in classes 1 to 5. Hence, the impugned order cannot be interfered with.



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8. Accordingly, this writ petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

03.01.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM

To

The Block Educational Officer
Tuticorin Urban - (Levinchipuram
Municipal Middle School Campus),
Tuticorin
Tuticorin District.



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M.DHANDAPANI, J.

RM

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