



W.P.(MD).No.6950 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.6950 of 2021

V.Rajesh Kanna

... Petitioner

Vs.

1.The Joint Director of School Education,
D.P.I Complex, College Road,
Nungambakkam, Chennai.

2.The Chief Educational Officer,
Office of the Chief Educational Office,
Dindigul District.

3.The District Educational Officer,
Office of the District Educational Office,
Batlagundu, Dindigul District.

4.The Secretary,
N.S.V.V. Boys Higher Secondary School,
Pattiveeranpatti,
Dindigul District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the third respondent vide his proceeding in A Thi Mu No.2405/A3/2020, dated 25.08.2020 and quash the same as illegal and consequently directing the respondents 1 to 3 herein to



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grant incentive increment to the petitioner for acquiring Higher Qualification of M.Phil., in English with effect from 15.05.2015 along with consequential benefits.

For Petitioner : Mr.J.Lawrance

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

The present writ petition has been filed for a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the third respondent vide his proceeding in A Thi Mu No.2405/A3/2020, dated 25.08.2020 and quash the same as illegal and consequently directing the respondents 1 to 3 herein to grant incentive increment to the petitioner for acquiring Higher Qualification of M.Phil., in English with effect from 15.05.2015 along with consequential benefits.

2. Heard the learned Counsel for the petitioner and the learned Government Advocate for the respondents and carefully perused the materials available on record.



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3. The petitioner completed his B.A English, M.A English and also B.Ed., Degree. On the basis of his qualification, he was appointed as B.T. Assistant in English in the fourth respondent School during 2008. The fourth respondent School is a recognised Aided Private School. Even prior to the appointment of the petitioner in the fourth respondent School, he possessed higher degree of M.A English and so the petitioner made a request to the fourth respondent as early as in the year 2006 itself to sanction incentive increment for possessing higher qualification of M.A. Thereafter, in the year 2014, the petitioner completed M.Phil degree English course in Madurai Kamaraj University - Evening College - without detriment to his regular works in the School. In furtherance to the same, on 02.04.2014, the petitioner made a request to the fourth respondent to give prior permission to him to pursue M.Phil degree English. The fourth respondent in turn vide his letter, dated 09.04.2014 had forwarded the petitioner's request to the third respondent for according prior approval and the same has also been duly entered into the service register of the petitioner. However, the prior permission sought for by the petitioner to study higher education in M.Phil., was kept pending by the third respondent. In view of the same, on 14.10.2014, the petitioner gave another representation to the fourth respondent seeking permission for acquiring higher education and



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the same was forwarded to the third respondent. However, the fourth respondent permitted the petitioner to pursue his M.Phil., degree and on that basis, the petitioner completed M.Phil., degree during the year 2015. On completion of M.Phil., degree in English, the petitioner requested the fourth respondent to award incentive increment to the petitioner, for which he has entitled as per G.O in G.O(Ms)No.42 of the Education Department, dated 10.01.1969. In the meanwhile, the impugned order came to be passed returning the proposal of the fourth respondent vide the proceedings of the third respondent, dated 25.08.2020. Assailing the same, this writ petition came to be filed.

4. The issue of grant of incentive increment for acquiring higher education qualification by teachers is no more *res integra* and I have dealt with a similar matter in W.P(MD)No.2137 of 2021, dated 13.07.2023 and has passed favorable orders to the petitioner thereat, thereby allowing the said writ petition, directing the respondents to forward the proposal in respect of the petitioner's incentive increment to the third respondent. The Hon'ble Division Bench of this Court in ***W.A(MD)No.1124 of 2023 (The Joint Director of School Education, (Higher Secondary), College Road, Chennai-6 and Others***



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Vs. S.Vasugi and another), dated 24.07.2023 has dealt with a similar case and the relevant portion of which is extracted as follows:

*"2. The first respondent / writ petitioner is a Teacher and she filed the above writ petition challenging the order by which the claim for incentive increment for acquiring higher qualification was rejected by the Joint Director of School Education and subsequently by the Chief Educational Officer. The application for incentive increment was rejected by the Joint Director of School Education and subsequently by the District Educational Officer by order, dated 12.11.2019 and 20.12.2019 respectively. The application for incentive increment was rejected only on the ground that the first respondent had not obtained prior permission of the authorities for undergoing higher education. Therefore, the learned Single Judge of this Court, allowed the writ petition, following the view taken by this Court by another Judge of this Court in **J.Tamilrajan Vs. Department of School Education and Others passed in W.P(MD)No.4019 of 2018**. It is now admitted before this Court the same view of this Court was affirmed in W.A(MD)No.813 of 2021 in the case of **The Director of School Education, DPI Campus, College Road, Chennai-6 Vs. G.Anandhi**, dated 16.04.2021.*

3. This Court find that the issue is no more res integra in view of the several judgments on this issue holding that the claim of teachers for incentive increment cannot be rejected on the



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ground that the concerned teacher had not obtained prior permission of the authorities for undergoing higher education. Since the issue has been settled by precedents, this Court is unable to countenance the arguments advanced by the learned Counsel for the appellants. It is true that there are several Government Order which have insisted the requirement of permission of the educational authorities for a teacher to undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher qualification is to encourage the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service will have to obtain prior permission as per the Government Orders. Further it is to be noted the acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity and that will not entitle the respondents to reject the benefit to the teachers."

5. However, the learned Government Advocate for the respondents categorically submitted that prior permission is the mandate of the Government for the petitioner to seek incentive increment for obtain the degree of M.Phil., English. He further submitted that the petitioner has acquired higher qualification in M.Phil., in 2014-2015, without getting prior permission and the



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Government has dispensed with the practice of granting incentive increments to the teachers and other Government servants for obtaining higher qualification as per G.O(Ms)No.37 of the Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020 and as per the clarification issued in G.O(Ms)No.116 of the Personnel and Administrative Reforms (FR-IV) Department, dated 16.10.2020 in those cases in which the incumbents became qualified for grant of incentive increment which would be dealt with separately in terms of the ratification which would be rendered by the Finance Department.

6. However, in view of the several orders passed by this Court and the Hon'ble Division Bench of this Court, considering the fact that, the issue has already been settled by precedents. I am not able to countenance the arguments advanced by the learned Counsel for the respondents. In view of the same, the impugned order, dated 25.08.2020 of the third respondent is hereby quashed and consequently the fourth respondent is directed to forward the proposal in respect of the petitioner's incentive increment to the third respondent within a period of two (2) weeks from the date of receipt of a copy of this order and on receipt of the same, the third respondent is directed to approve the same in



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accordance with law, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

7. This writ petition stands allowed, accordingly. There shall be no order as to costs.

12.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

1. The Joint Director of School Education,
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Nungambakkam, Chennai.
2. The Chief Educational Officer,
Office of the Chief Educational Office,
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3. The District Educational Officer,
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4. The Secretary,
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L.VICTORIA GOWRI, J.

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