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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:**04.01.2023**

CORAM:

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

W.P.(MD)Nos.11874, 11880, 11882 and 11885 of 2020
W.M.P(MD).Nos.10281 to 10283, 10285, 10287 to 10290 of 2020

K.Pramila ... Petitioner in W.P(MD).No.11874 of 2020

T.Senthamilselvi ... Petitioner in W.P(MD).No.11880 of 2020

R.Rajarajan ... Petitioner in W.P(MD).No.11882 of 2020

R.Jeyasankar ... Petitioner in W.P(MD).No.11885 of 2020

Vs.

1.The Principal Secretary to the Government,
Department of School Education (Pa.Ka.5(2))
Fort St.George,
Chennai-9.

2.The Director of School Education,
O/o.The Director of School Education,
DPI Campus, College Road,
Chennai-6.

3.The Principal Accountant General (A&E),
O/o.The Principal Accountant General (A&E),

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361, Anna Salai,
Chennai-600 018. ... Respondents in all petitions

Prayers in W.P(MD).Nos.11874 and 11885 of 2020: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned Government Order in G.O.Ms.No.177, School Education [PaKa5(2)] Department dated 13.10.2016 on the file of the respondent No.1 insofar as fixing 13.07.1992 as cut off date for acquiring B.Ed degree for the purpose of the first incentive and quash the same as illegal and consequently for a direction, directing the respondents to grant two incentive increments for acquiring B.Ed degree and P.G.Diploma in Yoga within the time period stipulated by this Court.

Prayer in W.P(MD).No.11880 of 2020: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned Government Order in G.O.Ms.No.177, School Education [PaKa5(2)] Department dated 13.10.2016 on the file of the respondent No.1 insofar

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as fixing 13.07.1992 as cut off date for acquiring B.Ed degree for the purpose of the first incentive and quash the same as illegal and consequently for a direction, directing the respondents to grant the incentive increment for acquiring B.Ed degree within the time period stipulated by this Court.

Prayer in W.P(MD).No.11882 of 2020: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned Government Order in G.O.Ms.No.177, School Education [PaKa5(2)] Department dated 13.10.2016 on the file of the respondent No.1 insofar as fixing 13.07.1992 as cut off date for acquiring B.Ed degree for the purpose of first incentive and quash the same as illegal and consequently for a direction, directing the respondents to grant two incentive increment for acquiring B.Ed degree within the time period stipulated by this Court.

In all cases

For Petitioners : Mr.S.Rajasekar
for Mr.T.Lajapathi Roy

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For Respondents : Mr.J.Ashok
Additional Government Pleader
for R1 and R2
Ms.S.Mahalakshmi for R3

C O M M O N O R D E R

The issue arising in the present writ petitions is one and the same and therefore, they are disposed of by way of this common order.

2. W.P(MD).Nos.11874 and 11885 of 2020 have been filed to call for the records pertaining to the impugned Government Order in G.O.Ms.No.177, School Education [PaKa5(2)] Department dated 13.10.2016, issued by the first respondent insofar as fixing 13.07.1992 as cut off date for acquiring B.Ed degree for the purpose of the first incentive, quash the same as illegal and direct the respondents to grant two incentive increments for acquiring B.Ed degree and P.G.Diploma in Yoga within the time period stipulated by this Court.

3. W.P(MD).No.11880 of 2020 has been filed to call for the records pertaining to the impugned Government Order in G.O.Ms.No.

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177, School Education [PaKa5(2)] Department dated 13.10.2016, issued by the first respondent insofar as fixing 13.07.1992 as cut off date for acquiring B.Ed degree for the purpose of the first incentive, quash the same as illegal and direct the respondents to grant the incentive increment for acquiring B.Ed degree within the time period stipulated by this Court.

4. W.P(MD).No.11882 of 2020 has been filed to call for the records pertaining to the impugned Government Order in G.O.Ms.No.177, School Education [PaKa5(2)] Department dated 13.10.2016, issued by the first respondent insofar as fixing 13.07.1992 as cut off date for acquiring B.Ed degree for the purpose of the first incentive, quash the same as illegal and direct the respondents to grant two incentive increment for acquiring B.Ed degree within the time period stipulated by this Court.

5. The petitioners were appointed as Physical Education Teachers on various dates and their services were regularized. They were granted

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Selection Grade. The basic qualification for the post of Physical Education Teacher is C.PEd. The petitioners have completed B.A., and B.Ed Degree and they are entitled to first incentive increment. In addition to this, the petitioners in W.P(MD).Nos.11874 and 11885 of 2020 have also acquired higher qualifications, namely, M.A., and P.G. Diploma in Yoga and they are entitled to two incentive increments. However, they have been deprived of their incentive increments as per the impugned Government Order issued by the first respondent, wherein, it has been stated that the persons, who have passed B.T. or B.Ed before G.O(Ms).No.624, Education (E2) Department, dated 13.07.1992 or who acquired B.PEd., (or) BPES (or) BMS, are entitled for first incentive increment. Aggrieved by the fixation of cut-off date, the present writ petitions have been filed.

6. The learned counsel appearing for the petitioners would submit that the petitioners were appointed as Physical Education Teachers on various dates and the basic qualification for Physical Education Teachers is C.PEd. Subsequently, there was an amendment for the basic

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qualification with regard to the Physical Education Teacher is B.PEd., or BPES or BMS. Based on the earlier qualification, the petitioners are entitled for first incentive increment. However, a perusal of the impugned Government Order reveals that the persons, who have passed B.T., or B.Ed., before G.O.(Ms).No.624, Education (E2) Deparment, dated 13.07.1992, are entitled to first incentive increment. Admittedly, the petitioners have acquired the B.Ed., qualification only after their appointments as the Physical Education Teachers and they were denied the first incentive increment. However, the petitioners in W.P(MD).Nos. 11874 and 11885 of 2020 have acquired the qualification of P.G.Diploma in Yoga and therefore, they are entitled for second incentive increment. Hence, this Court may grant liberty to the petitioners in W.P(MD).Nos. 11874 and 11885 of 2020 to make a fresh representation in terms of G.O. (Ms).No.177, School Education [PaKa5(2)] Department dated 13.10.2016.

7. Heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader appearing for the respondents.

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8. The facts in the present case are not in dispute. Admittedly, as per G.O.(Ms).No.177, School Education [PaKa5(2)] dated 13.10.2016, the petitioners are not entitled for first incentive increment, since they have acquired the qualification of B.Ed., only after their appointments as the Physical Education Teacher.

9. However, as far as the petitioners in W.P(MD).Nos.11874 and 11885 of 2020 are concerned, as per G.O.(Ms).No.177, School Education [PaKa5(2)] Department dated 13.10.2016, they have acquired the qualification of P.G.Diploma in Yoga. Hence, considering the limited request made by the learned counsel appearing for the petitioners, this Court, without interfering with the impugned Government Order issued by the first respondent, directs the petitioners in W.P(MD).Nos.11874 and 11885 of 2020 to make a fresh representation in terms of G.O.(Ms).No.177, School Education [PaKa5(2)], dated 13.10.2016 to the respondents. If any representation is made by the petitioners in W.P(MD).Nos.

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11874 and 11885 of 2020, the respondents are directed to consider the same and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of the representation, in terms of the said Government Order.

10. Accordingly, W.P(MD).Nos.11880 and 11882 of 2020 are dismissed and W.P(MD).Nos.11874 and 11885 of 2020 are disposed of. No costs. Connected miscellaneous petitions are closed.

04.01.2023

ssb
NCC:Yes/No
Index:Yes/No
Internet:Yes/No

To

1.The Principal Secretary to the Government,
Department of School Education (Pa.Ka.5(2))
Fort St.George,
Chennai-9.

2.The Director of School Education,
O/o.The Director of School Education,

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DPI Campus, College Road,
Chennai-6.

3.The Principal Accountant General (A&E),
O/o.The Principal Accountant General (A&E),
361, Anna Salai,
Chennai-600 018.

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M.DHANDAPANI,J.

ssb

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