



W.P.(MD).No.14110 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

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A.Arokia Mary

... Petitioner

Vs.

- 1.The Secretary,
School Education Department,
Secretariat,
St.George Fort,
Chennai – 600 009.
- 2.The Director of Elementary Education,
DPI Campus,
College Road,
Chennai – 600 006.
- 3.The District Educational Officer,
District Educational Office,
Thoothukudi,
At Pudukkottai – 628 103,
Thoothukudi.
- 4.The Block Educational Officer,
Muniyasampuram,
Thoothukudi – 628 003.
- 5.The Secretary,
Sahaya Matha Primary School,
Lions Town,
Thoothukudi.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to pay the petitioner incentive increment for her higher educational qualification of M.A., degree along with monetary and other retiral benefits.

For Petitioner : Mr.B.Vinothkumar

For R-1 to R-4 : Mr.V.Omprakash,
Government Advocate.

For R-5 : Mr.V.John Kennedy,
For M/s. Father Xavier Associates.

ORDER

This Writ Petition is filed for Mandamus directing the respondents to grant incentive increment for acquiring higher qualification of M.A., degree with all monetary benefits and other retirement benefits.

2. The petitioner was appointed as Secondary Grade Assistant at Sahaya Matha Primary School, Thoothukudi on 20.01.1993 and subsequently, completed her probation and her service was also regularized. On 31.05.2019, the petitioner attained superannuation after rendering 26 years of service. At the time of original appointment on 20.01.1993, the petitioner was possessing educational qualification of B.Sc., B.Ed., Because of non-availability of



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Secondary Grade Teachers, the petitioner was appointed in the Private Aided School, inspite of possessing higher qualification. The Government subsequently has issued Government Order restraining the Private Aided School from appointing B.T. qualified teachers in the post of Secondary Grade Teachers. Since the petitioner is possessing B.T. qualification, the respondents have directed the petitioner to give an undertaking that the petitioner will not seek any incentive increment for the higher qualification of B.T. Assistant. Based on the undertaken, the petitioner was appointed. While the petitioner was in service, she obtained prior permission from the appropriate authorities and qualified herself in M.A., degree in Annamalai University in the year 1999. For such degree, the petitioner is seeking incentive increment. However, the respondents did not consider and orally stated that the petitioner had executed an undertaking that she will not seek any incentive increment for acquiring higher qualification. Therefore, the petitioner would not be entitled to incentive increment for acquiring higher qualification. Since the respondents have not passed any order, aggrieved over the same, the petitioner has approached this Court by way of filing this Writ Petition.



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3. The respondents have filed a counter stating that the G.O.Ms.No.1024 dated 09.12.1993 cannot be invoked, since it has been passed modifying several Government Orders including G.O.Ms.No.42 dated 10.01.1969. Subsequently, G.O.Ms.No.107 dated 20.01.1976 and G.O.Ms.No.1023 dated 09.12.1993 were issued. In G.O.Ms.No.1024 dated 09.12.1993, it has been specifically stated under para 4 that the persons who have completed M.Ed., degree prior to 1993 are eligible and the persons who have completed after 1993 are not eligible. Therefore, the respondents prayed to dismiss this Writ Petition.

4. Heard Mr.B.Vinothkumar, learned counsel for the petitioner, Mr.V.Omprakash, learned Government Advocate for the respondents 1 to 4 and Mr.V.John Kennedy, for M/s. Father Xavier Associates, learned counsel for the fifth respondent.

5. The petitioner was originally appointed in the Secondary Grade post with B.T., qualification, since there was ban to recruit B.T. qualified teachers in the post of Secondary Grade post. Hence, the respondents directed the school to get an undertaking from the petitioner that she will not claim any incentive increment for the B.T qualification. Therefore, the petitioner has also executed such an undertaking that she will not seek any incentive increment for the B.T.



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Assistant qualification which she is already possessing at the time of appointment. But the claim of the petitioner in this Writ Petition is that subsequently after joining the service, in the year 1999 she has qualified herself as M.A.(History) and she is seeking incentive increment for this qualification. The contention of the respondents is that the petitioner has given an undertaking, therefore she is not eligible. This Court is not able to accept such reasoning of the respondents. Since the petitioner has executed an undertaking foregoing the incentive increment for B.T. qualification alone and not for the subsequent M.A. qualification. Therefore, the petitioner is entitled to incentive increment for M.A., degree.

6. The learned counsel appearing for the respondents submitted that in G.O.Ms.No.1024, the incentive increment was granted for the persons who have passed M.Ed., degree prior to 1993. On perusal of the said Government Order, it speaks about the 3rd incentive increment to the Secondary Grade Teachers. For Secondary Grade Teachers, 2 incentive increment would be granted for B.T., qualification. The next set of incentive increment would be for M.A., or M.Sc. Subsequently, the said Secondary Grade Teacher is qualified in M.Ed., and for the same, they are eligible for 3rd incentive increment. However, it was restricted such increment is eligible only to the persons who



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acquired M.A., degree prior to 09.12.1993. In the present case, the petitioner is seeking the first incentive increment for M.A., and it is not the 3rd incentive increment. However, the contention of the respondent cannot be accepted. The petitioner is entitled to atleast for one incentive increment. The said Government Order also states that any teacher would be entitled to incentive increment in the entire career atleast two times.

7. In the present case, the petitioner is not entitled to receive any incentive for B.T qualification. The only one incentive increment that is available to the petitioner is M.A., qualification alone. Hence, the petitioner is entitled to incentive increment for M.A., qualification.

8. The learned counsel appearing for the respondents submitted that under G.O.Ms.No.37 dated 10.03.2020, the petitioner is not entitled. However, under clause 6 (vi) it has been stated that if there is any administrative order to grant incentive increment, the Administration Department shall sanction it after getting concurrence from the Finance Department. Therefore, the petitioner's case shall be considered by the third respondent after getting concurrence from the Finance Department. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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9. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs.

12.04.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

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St.George Fort,
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- 2.The Director of Elementary Education,
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S.SRIMATHY, J.

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