



W.P.(MD)Nos.13221 and 13223 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.(MD)Nos.13221 and 13223 of 2020
W.M.P(MD).Nos.11065 and 11068 of 2020**

S.Albert Anbu Nathan ... Petitioner in W.P(MD).No.13221 of 2020
U.Xavier Gnanamuthu ... Petitioner in W.P(MD).No.13223 of 2020

Vs.

- 1.The District Educational Officer,
Ramanathapuram.
 - 2.The Assistant Treasury Officer,
Thiruvadanai,
Ramanathapuram District.
 - 3.The Correspondent,
Sirumalar Higher Secondary School,
Andavoorani,
Thiruvadanai Taluk,
Ramanathapuram District.
- ... Respondents in both petitions



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COMMON PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the second respondent in his proceedings in Na.Ka.No.098/20/A1 dated 10.09.2020, quash the same and consequently, direct the second respondent to sanction the proposal submitted by the Management dated 07.09.2020 so as to enable the petitioners to get the incentive increment for M.Phil., qualification with all attendant benefits.

In both cases

For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mr.J.Ashok
Additional Government Pleader
for R1 and R2

COMMON ORDER

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



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2. These Writ Petitions have been filed to call for the records pertaining to the order passed by the second respondent in Na.Ka.No.098/20/A1 dated 10.09.2020, quash the same and direct the second respondent to sanction the proposal submitted by the Management, dated 07.09.2020 so as to enable the petitioners to get incentive increment for M.Phil., qualification with all attendant benefits.

3. The case of the petitioners is that the petitioners are working as B.T.Assistants in the third respondent School. As per the existing scheme, the petitioners are entitled to receive the incentive increment for having acquired the higher qualification. Initially, the petitioners were sanctioned one set of incentive increment for having acquired the higher qualification of M.A., Thereafter, they have possessed M.Phil in the year 2018. Hence, the petitioners are entitled to receive the incentive increment for having acquired the higher qualification of M.Phil., and in this regard, they have made a request to the third respondent. The third respondent has also accepted the request of the petitioner and forwarded the proposal to the first respondent for sanctioning the incentive increment to the petitioners. The



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first respondent has approved for sanctioning of incentive increment to them and the pay bill was sent to the second respondent to release the amount as per the approval order issued by the first respondent. However, the second respondent rejected the said proposal referring G.O.(Ms).No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020. Challenging the same, the present writ petitions have been filed.

4. The learned counsel appearing for the petitioners would submit that admittedly, awarding of incentive increment for having acquired the higher qualification was banned vide G.O.(Ms).No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020. However, in that Government Order, it is made clear that a person, who acquired the higher qualification prior to this Government Order, is entitled to receive advance increment and the advance increment may be sanctioned by the Administrative Department concerned after obtaining concurrence of the Finance Department. Hence, the Authority has to get approval from the Finance Department. In the present case, the first respondent has approved the petitioners' incentive increment without getting approval from the



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Finance Department as per G.O.(Ms).No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020. Hence, this Court may issue a direction to the respondents 1 and 3 to get approval from the Finance Department for sanctioning of incentive increment to the petitioners for having acquired the higher qualification.

5. The learned Additional Government Pleader appearing for the respondents 1 and 2 would submit that since the first respondent without getting approval from the Finance Department has approved the incentive increment for having acquired the higher qualification, this Court may issue a direction to the first respondent to get approval from the Finance Department for sanctioning of incentive increment for having acquired the higher qualification.

6. Heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader appearing for the respondents 1 and 2.



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7. The facts in the present case are not in dispute. Admittedly, the petitioners were appointed as B.T.Assistants in the third respondent School. Initially, they have acquired the higher qualification of M.A., for which, they were granted one set of incentive increment and thereafter, they have possessed M.Phil., in the year 2018. They have made a request to the third respondent to sanction the incentive increment for having acquired the higher qualification of M.Phil., and the third respondent has forwarded the proposal to the first respondent to sanction the incentive increment. The first respondent has approved for sanction of incentive increment to the petitioners and the pay bill was sent to the second respondent to release the amount. The second respondent rejected the bill by referring to G.O.(Ms).No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020. A perusal of the said Government Order reveals that "*the cases of Government Servants who have acquired higher qualification prior to issue of this general order, and not sanctioned with advance increments be examined separately as per the previous order issued, if any by the administrative department concerned and with reference to the posts specified in that order and if he is otherwise qualified,*



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then the advance increment may be sanctioned by the administrative department concerned after obtaining concurrence of the Finance Department".

8. In the present case, the first respondent, without obtaining concurrence from the Finance Department, has granted approval for sanction of incentive increment to the petitioners. Hence, the second respondent has refused to grant incentive increment to the petitioners which is perfectly in order and it cannot be interfered with. However, the third respondent School is directed to send a fresh proposal to the first respondent and if any proposal is made by the third respondent School, the first respondent is directed to pass appropriate orders on merits and in accordance with law, after obtaining concurrence from the Finance Department. The said exercise is to be completed within a period of 12 weeks from the date of receipt of a copy of this order.



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9. Accordingly, these Writ Petitions are disposed of. No costs.

Connected miscellaneous petitions are also closed.

24.01.2023

Index : Yes / No

Speaking Order : Yes / No

ssb

To

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M.DHANDAPANI,J.

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and
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