



W.P.(MD)No.13909 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.13909 of 2020

S.Akbar Ali

... Petitioner

Vs.

1.The Principal Secretary to Government,
School Education Department,
Secretariat,
Fort St. George,
Chennai 600 009.

2.The Director of School Education,
College Road,
Chennai 600 006.

3.The Chief Educational Officer,
Sivagangai,
Sivagangai District.

4.The District Educational Officer,
Sivagangai,
Sivagangai District.

5.The Correspondent,
Ilayankudi Higher Secondary School,
Ilayankudi,
Sivagangai District.

... Respondents



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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 18.09.2020 passed by the 5th respondent as illegal and quash the same and consequently direct the respondents to sanction incentive increment to the petitioner for possessing M.Phil., qualification within the time frame fixed by this Court.

For Petitioner : Mr.J.Senthil Kumaraiah
For R1 to R4 : Mr.S.Saji Bino
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned order passed by the fifth respondent, dated 18.09.2020 and to quash the same and consequently direct the respondents to sanction incentive increment to the petitioner for possessing M.Phil., qualification within a stipulated time.

2. The case of the petitioner is that initially he joined as B.T.Assistant (History) in Hajee B.Syed Mohammed Higher Secondary School, Virudhunagar in the year 1978. Thereafter, he joined as



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B.T.Assistant in Al-Ameen Higher Secondary School in the year 1980.

Thereafter, he joined as Tamil Pandit in the fifth respondent School in the year 1987 and rendered service till 07.08.2005. Due to some dispute between the petitioner and the fifth respondent, disciplinary proceeding was initiated against the petitioner and finally he was dismissed from service on 07.08.2005. Challenging the same, the petitioner has filed a writ petition in W.P.(MD).No.9520 of 2005 before this Court and on 18.07.2018, this Court passed an order to treat the dismissal order as compulsory retirement. While he was working in the fifth respondent School, he has completed M.Ed., degree and received second incentive increment from the year 1989. Finally, he has completed M.Phil., degree in the year 1998 and approached the fifth respondent Management to sanction third incentive increment. Due to some dispute between the Management and the petitioner, the fifth respondent Management did not forward his claim to the official respondents. Hence, the petitioner has made a representation to the respondents on 28.07.2020, to sanction third incentive increment for M.Phil., qualification. But the fifth respondent has rejected his claim on 18.09.2020, stating that a Teacher shall be eligible only two incentive increments in his entire service time.



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Challenging the same, the present writ petition has been filed.

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3. The learned counsel appearing for the petitioner would submit that as per G.O.(Ms.)No.1024, dated 09.12.1993, a Teacher shall be eligible for two incentive increments. However, there is no prohibition for awarding third incentive increment. In the absence of any prohibition, the rejection order passed by the fifth respondent is not sustainable one. Hence, he prayed for allowing this writ petition.

4. Per contra, the learned Special Government Pleader appearing for the respondents 1 to 4 would submit that when the Division Bench has taken note of the fact that under the Scheme, the incentive increment to be granted and the total number of incentive increment is two, there is no confusion in respect of grant of any further incentive increment to the Teacher on promotion or an transfer to another cadre. Thus, it is clarified even by the Division Bench that a maximum number of advance increments which a Teacher can get under the Scheme is two incentive increments amounting to four increments in his entire service. Therefore, on promotion,



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a Teacher would not be entitled to get third incentive increment and which will amount to an anomaly and the same would create discrimination amongst the class of people, who are working under the same Department. Hence, he prayed for dismissal of this writ petition.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 4.

6. The facts in the present case are not in dispute. Admittedly, the petitioner suffered with the punishment of dismissal from service, which was modified by this Court as compulsory retirement. After compulsory retirement, the petitioner has made an application for grant of third incentive increment, since he has already received two incentive increments for acquiring higher qualifications. However, the fifth respondent has rejected the same on the ground that there is no Government Order or provision for awarding third incentive increment. It is also not in dispute that as per G.O.(Ms.)No.1024, dated 09.12.1993, a Teacher shall be eligible for two incentive increments. In the absence of any Government Order or



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provision for awarding third incentive increment, the prayer sought for by the petitioner cannot be granted. Hence, the writ petition is dismissed. No costs.

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NCC: Yes/No
Index : Yes / No
Speaking Order : Yes / No

akv

To

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M.DHANDAPANI,J.

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