



W.P.(MD)No.15958 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.15958 of 2020

and

W.M.P(MD)Nos.13358 & 16372 of 2020

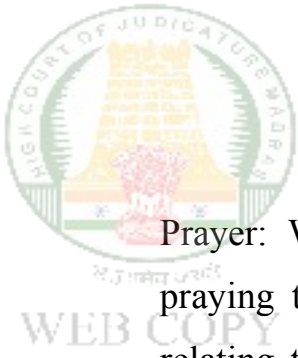
S.Selvi Greeta Annamuthu

... Petitioner

Vs

- 1.The State represented by
The Secretary,
Department of School Education,
Fort.St.George,
Chennai – 600 009.
- 2.The Director of Elementary Education,
College Road,
Chennai – 600 006.
- 3.The District of Elementary Officer,
Tiruchendur,
Tuticorin District.
- 4.The Block Educational Officer,
Alwarthirunagari Union @ Thenthiruperai,
Tuticorin District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the fourth respondent herein vide Na.Ka.No.578/Aa2/2018 dated 17.10.2020 quash the same and further direct the respondents herein to re-fix the petitioner's salary with incentive increment of of M.A.Degree.

For Petitioner : Mr.A.Ajith Geethan

For Respondents : Mr.N.Satheeskumar
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2.The writ petitioner was appointed as Secondary Grade Teacher way back in the year 1985. She then passed D.T.Ed., qualification. She became Headmistress in the year 1999. She acquired B.A(Tamil) in April 1997, M.A (Tamil) in 2006 and B.Ed Degree during December 2009. The petitioner was promoted as Middle School Headmistress on 03.07.2006. The petitioner was given one set of incentive increment for acquiring M.A Degree with effect from 03.07.2006 and incentive increment for B.Ed degree with effect from 30.12.2019. There was an audit objection with regard to conferment of incentive increment with effect from 03.07.2006. Based on the same, without



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notice to the petitioner refixation was ordered and recovery was also ordered.

Challenging the same, the petitioner filed W.P(MD)No.5262 of 2020. Vide order dated 19.03.2020, the order passed by the department was set aside and the matter was remitted to the file of the authority to pass a fresh order since in violation of the principles of natural justice, the order came to be passed. The authority stuck to the earlier stand that conferment of incentive increment for acquiring MA degree with effect from 03.07.2006 was contrary to the Government Order. To this effect, the order dated 17.10.2020 came to be passed by the Block Educational Officer / the fourth respondent herein. Challenging the same the present writ petition came to be filed.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petitioner and called upon this Court to set aside the impugned order and grant relief as prayed for.

4.The respondents have filed counter affidavit and the learned Additional Government Pleader took me through its contents. His contention is that the petitioner is not eligible to be conferred with any incentive increment. He relied on the order dated 23.09.2022 made in ***W.P(MD)No.3067 of 2022 (A.Dhanalakshmi Vs The State of Tamil Nadu & Others)*** and pressed for



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dismissal of the writ petition.

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5.I carefully considered the rival contentions and went through the materials on record.

6.Reliance on the order dated 23.09.2022 made in ***W.P(MD)No.3067 of 2022 (A.Dhanalakshmi Vs The State of Tamil Nadu & Others)*** does not appear to be appropriate. In the said case, I had held that conferment of incentive increment for acquiring B.Ed qualification is not envisaged by G.O(Ms) No.42 Education Department dated 10.01.1969. But the case on hand does not pertain to B.Ed qualification. It pertains to acquiring MA Qualification. The G.O itself indicates that if PG degree or M.Ed is acquired by Middle School Headmistress either before or after appointment incentive increment has to be given. The petitioner's counsel relied on a catena of decision in this regard. One such order dated 17.04.2015 in ***W.P(MD)No. 18899 of 2014 (S.Noble Durai Jebakumar Vs The Director of Elementary Education & Others)*** is enclosed in the typed set of papers. Paragraph No.5 of the said order reads as follows:

“5. On reading of the provisions of the Government Order supra, it is clear that B.Ed qualification along with Post



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Graduate is required in respect of the Secondary Grade Teacher alone. Admittedly, in this case, the petitioner got promotion as Headmaster, which has also been approved by the concerned respondent and therefore, the petitioner is no longer the Secondary Grade Teacher thereby denying the benefit of G.O.Ms.No.42, which clearly stipulates that the person, having Post Graduate Degree, would be entitled to get the increment.”

In this view of the matter, the order impugned in this writ petition is set aside. This writ petition is allowed. It is open to the respondents herein to take action in accordance with law in terms of the order dated 23.09.2022 made in ***W.P(MD)No.3067 of 2022 (A.Dhanalakshmi Vs The State of Tamil Nadu & Others)***. While the conferment of additional incentive for acquiring B.Ed qualification can be set aside and refixation can also be ordered, recovery cannot be made for the payments already made. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

10.04.2023

Index : Yes / No
Internet : Yes/ No
NCC : Yes / No
MGA



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