



WP.(MD).No.18593 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 25.09.2023

PRONOUNCED ON : 17.11.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.18593 of 2020

and

W.M.P.(MD)Nos.15547 and 15550 of 2020

L.Kurumba Thevan

... Petitioner

Vs.

- 1.The State of Tamil Nadu Represented by its,
Secretary to Government,
School Education Department,
Secretariat,
Chennai – 600 009.
- 2.The Director of Elementary Education,
DPI Complex, College Road,
Chennai – 600 006.
- 3.The Chief Educational Officer,
Madurai District,
Madurai – 625 002.
- 4.The District Educational Officer,
(Formerly District Elementary Officer, Madurai),
Usilampatti Educational District,
Usilampatti,
Madurai District.



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5.The Block Educational Officer,
(Formerly Assistant Educational Officer),
Chellampatti Union, Chellampatti,
Tirumangalam Taluk,
Madurai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order Na.Ka.No.017731/E1/2015 dated 24.08.2016 passed by the second respondent and the consequential order Na.Ka.No.1205/A2/2018 dated 14.02.2019 passed by the fifth respondent and quash the order Na.Ka.No.017731/E1/2015 dated 24.08.2016 passed by the second respondent in so far as denying incentive increment and the consequential order Na.Ka.No.1205/A2/2018 dated 14.02.2019 passed by the fifth respondent and consequently, direct the respondents to grant one incentive increment to the petitioner for having acquired B.Ed., degree qualification with effect from 30.12.2015 and to grant consequently revision of pay with effect from 01.01.2016 as per the Tamil Nadu Revised Pay Scales Rules 2017 and to disburse the arrears of pay and allowance from 30.12.2015.

For Petitioner	: Mr.A.Thirumurthy
For Respondents	: Mr.N.Ramesh Arumugam, Government Advocate



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ORDER

The prayer in the writ petition is as follows :-

This Writ Petition have been filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order in Na.Ka.No.017731/E1/2015 dated 24.08.2016 passed by the second respondent and the consequential order in Na.Ka.No. 1205/A2/2018 dated 14.02.2019 passed by the fifth respondent and quash the order in Na.Ka.No.017731/E1/2015 dated 24.08.2016 passed by the second respondent in so far as denying incentive increment and the consequential order in Na.Ka.No. 1205/A2/2018 dated 14.02.2019 passed by the fifth respondent and to direct the respondents to grant one incentive increment to the petitioner for having acquired B.Ed., degree qualification with effect from 30.12.2015 and to grant consequently revision of pay with effect from 01.01.2016 as per the Tamil Nadu Revised Pay Scales Rules 2017 and to disburse the arrears of pay and allowance from 30.12.2015.



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The case of the petitioner is reads as follows :-

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2.The petitioner passed B.A.(Political Science) degree course in November 1986 and D.T.Ed. Course in the year 1990. He was appointed as Secondary Grade Teacher on 04.10.1996 and was promoted as Primary School Headmaster on 18.06.2001 and presently the petitioner is working as Primary School Headmaster in Chellampatty Panchayat Union, Madurai District. The fifth respondent permitted the petitioner to do higher education, I.e. B.Ed. Degree course at Indira Gandhi National Open University (IGNOU) vide order dated 01.04.2014. Likewise the third respondent CEO permitted the petitioner to undergo teaching practice for the said B.Ed course at Government High School, Thottappanaickanur vide order dated 11.07.2014. Accordingly, the petitioner underwent B.Ed Course and teaching practice both in Political Science and Tamil subjects and he passed in B.Ed course in December 2015. The Government vide G.O.Ms.No.42 Education Department dated 10.01.1969 has passed orders with respect to grant of incentive increment to teachers who acquired higher academic qualifications and in the order in Na.Ka.No.6649/K/2007 dated 05.02.2007, the Director of School Education, Chennai has clarified that B.Ed degree awarded by the Indira



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Gandhi National Open University, New Delhi after January 2000 is eligible for grant of incentive increment. Hence, the petitioner is eligible for one incentive increment I.e., two advance increments for having acquired B.Ed degree with effect from 30.12.2015. Therefore, the petitioner made an application on 07.09.2016 to the fifth respondent requesting him to grant him one incentive increment for having acquired B.Ed degree.

3.However, the fifth respondent returned the petitioner's application vide order dated 07.01.2017 stating that as per the letter Na.Ka.No.017731/E1/2015 dated 24.08.2016, of the second respondent, the petitioner was not eligible for incentive increment for obtaining the higher qualifications of B.A.(Political Science) and B.Ed degree. Hence, the petitioner made an appeal dated 24.01.2017 to the fourth respondent against the order passed by the fifth respondent on 07.01.2017 denying the incentive increment to the petitioner for B.Ed. Qualification.

4.The fourth respondent after receiving various details from DEO and after due consideration of the matter, has passed the order vide



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O.Mu.No.396/Aa/2017 dated 22.11.2017, holding that the order issued in Na.Ka.No.017731/E1/2015 dated 24.08.2016 of the second respondent does not apply to the petitioner and directed the fifth respondent to grant incentive increment to the petitioner in accordance with G.O.Ms.No.42 Education Department dated 10.01.1969. Since the fifth respondent did not obey the said order dated 22.07.2017 of the fourth respondent and did not grant incentive increment to the petitioner for B.Ed qualification with effect from 30.12.2015, the petitioner filed W.P.(MD)No.16113 of 2018 and this Court was pleased to pass an order on 24.07.2019 in the aforesaid Writ Petition directing the fifth respondent to pass an order to grant incentive increment to the petitioner pursuant to the direction issued by the fourth respondent within a period of six weeks from the date of receipt of copy of the order.

5.While so on 14.02.2019, the fifth respondent had passed the impugned proceedings in Na.Ka.No.1205/A2/2018 denying the incentive increment to the petitioner for B.Ed qualification referring to the order in Na.Ka.No.017731/E1/2015 dated 24.08.2016 passed by the second respondent. Challenging the impugned orders dated 24.08.2016 and



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14.02.2019 respectively, this Writ Petition came to be filed.

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Submission :-

6.Per contra the fifth respondent has filed a counter and the learned Government Advocate appearing for the respondents submitted that the petitioner is working as Primary School Headmaster and acquired B.A. (Political Science) degree in the year 1986 and B.Ed (Political Science) degree in the year 2015. He further submitted that vide G.O.Ms.No.42 dated 10.01.1969 Education Department of the State of Tamil Nadu, introduced the scheme for incentive increment encouraging the teachers to acquire more and higher qualifications, so that they equip themselves well and better, which would ultimately benefit the students. In the said G.O. it has been mentioned that incentive increment can be granted if a person acquires Graduate degree in teaching subjects such as Science, Maths, Tamil, English, Social Science subjects alone. Since Political Science will come under non teaching subject for the standards 1 to 8, the petitioner is not entitled for incentive increment. As per G.O.Ms.No. 134 School Education (G2) Department dated 15.06.2007, the Secondary School Teachers and Primary School Headmasters are eligible to be



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promoted as BT Assistant or Middle School Headmasters if they acquire Under Graduate degree in any subject on or before 01.01.2007. As far as petitioner its concerned, since the petitioner has studied B.Ed Political Science degree only on 2015, the benefit of G.O.Ms.No.135 will not cover the case of the petitioner and hence, the petitioner is not entitled to any incentive increment for B.Ed (Political Science) degree. Since the petitioner has acquired B.Ed degree with respect to non teaching subject, he is not entitled to get benefit of incentive increment. On that basis, he pressed for dismissal of writ petition.

7.Heard Mr.A.Thirumurthy, learned counsel appearing for the petitioner, Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the respondents and perused the entire materials available on record.

Analysis:-

8.No doubt G.O.Ms.No.42 Education Department dated 10.01.1969 provided with the scheme for incentive increments with noble object of encouraging the teachers to acquire higher qualifications.



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However, in due course of time, G.O.Ms.No.324 Education, Science and Technology Department (E2) dated 25.04.1995 came to be issued, in which, clarifications in relation to the subjects for which incentive increments to be sanctioned was issued. The clarification in the aforesaid G.O.Ms.No.324 dated 25.04.1995 mandated for sanction of incentive increments, only to the relevant subjects in the Higher Secondary Stream Syllabus. In respect of teachers in Physical Education, they are eligible for incentive for higher qualification only in Physical Education. It was further clarified that the teachers who have a specialized higher qualification in subjects other than Higher Secondary Syllabus will not be eligible for any incentive increment. The said order will take effect from 17.09.1986.

9.In furtherance to that, the Government has issued another G.O.Ms.No.37, Personnel and Administrative Reforms dated 10.03.2020, wherein the Government has categorically taken a policy decision to cancel/dispense with granting of incentive increment for acquiring higher qualification and the relevant portion of which is extracted as follows:-



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“(I)As a policy decision, the scheme of sanction of advance increment for acquiring higher qualification in all departments and all orders issued by all departments for sanction of advance increment for possessing higher qualification, as a whole, be cancelled/dispensed with immediate effect.

(ii)The orders issued in the Government Orders fifth to eighth read above be cancelled with immediate effect.

(iii)The sanction of the advance increment for passing Account Test for Sub-ordinate Officers – Part.I, as per rulings (3) & (4) under FR 31-A be dispensed with immediate effect.

(iv)The advance increment for acquiring higher qualification already granted to Government Servants need not be effect any recovery.

(v)All the Departments of Secretariat/Head of the Departments are requested to take review on this issue with reference to the special/adhoc rules of the posts (entry to higher level) of the department concerned and to prescribe higher qualification to the posts whether necessarily required so as to improve the services of the department concerned.

(vi)The case of Government servants who have acquired higher qualification prior to issue of this general order, and not sanctioned with advance increments be



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examined separately as per the previous orders issued, if any, by the administrative department concerned and with reference to the posts specified in that order and if he is otherwise qualified, then the advance increment may be sanctioned by the administrative department concerned after obtaining concurrence of Finance Department. If no previous orders were issued by any of the department concerned, then they are not eligible for sanction of any advance increments for passing higher qualification irrespective of the post held/degree acquired.

(vii)No fresh/further proposals will be entertained by Personnel and Administrative reforms Department on this issue in future.”

10.However, in the instant case, the petitioner was permitted to do higher education I.e. B.Ed degree course in Indira Gandhi National Open University by the fifth respondent. Thereafter, the third respondent CEO permitted the petitioner to undergo teaching practice for the said B.Ed Course in Government High School Thottappanaickanur vide order dated 11.07.2014. Having acquired B.Ed. degree (Political Science) with effect from 30.12.2015, the petitioner's application seeking incentive increments was duly considered by the fourth respondent DEO, Madurai



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and the fourth respondent has passed an order in O.Mu.No.396/Aa.4/2017 dated 22.11.2017 directing the fifth respondent to consider the case of the petitioner to grant incentive increment in accordance with G.O.Ms.No.42 of School Education Department dated 10.09.1969. Though at the first instance vide impugned order dated 24.08.2016, the second respondent had rejected the petitioner's claim for incentive increments for obtaining higher qualification of B.A. (Political Science) and B.Ed degree, it is only in an appeal made as against the impugned order dated 24.08.2016, the fourth respondent had passed a favourable order dated 22.11.2017, directing the second respondent to consider the case of the petitioner in terms of G.O.Ms.No.42 dated 10.01.1969. When the same was not considered by the second respondent in a writ petition filed by the petitioner in W.P.(MD)No.16113 of 2018, this Court was also pleased to pass an order dated 24.07.2018 in favour of the petitioner and the relevant portion of which is extracted as follows:-

“4.I have heard the learned Additional Government Pleader, who would submit that, in the light of the directive issued by the third respondent vide his proceedings dated 22.11.2017, necessary follow up action would be taken by the fourth respondent for giving advance incentive increment to the



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petitioner for acquiring the qualification for B.Ed. Degree.

5. Considering the said submissions made by both sides and also taking into account the directive issued by the third respondent in his proceedings dated 22.11.2017, where, he had already given to the fourth respondent to act upon, this Court is inclined to pass the following order:

“The fourth respondent is directed to take necessary steps to pass orders to get the incentive increment to the petitioner for having higher qualification, pursuant to the direction issued by the third respondent on O.Mu.No.396/Aa. 4/2017 dated 22.11.2017 and the aforesaid needful shall be undertaken by the fourth respondent, within a period of six weeks from the date of receipt of a copy of this order.”

6. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.”

11. Only pursuant to the said order passed by this Court, the final impugned order dated 14.02.2019 came to be passed by the fifth respondent denying the incentive increments for B.Ed., qualification to the petitioner exclusively for the reason that the petitioner's qualification is in Political Science, which is non teaching subject for the standards 1



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to 8.

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12.The clarification issued by the Government of the Tamil Nadu in G.O.Ms.No.324 Education, Science and Technology Department (E2) dated 25.04.1995 makes it clear that for the sanction of incentive increments, the subjects in the Higher Secondary Syllabus alone shall be the relevant subjects and those teachers who have specialized higher qualification in subjects other than Higher Secondary Syllabus will not be eligible for any incentive increment. That apart G.O.Ms.No.37 Personnel and Administrative Reforms dated 10.03.2020 has dispensed with the scheme of sanction of advance for acquiring higher educational qualification.

13.Thus in terms of clarification issued by G.O.Ms.No.324 dated 25.04.2016, the petitioner's higher qualification of B.Ed degree in Political Science will come under the category of non teaching subject excluded in the higher secondary syllabus.



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14. In view of the same, I am not inclined to interfere with the impugned order of the respondents. Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs. Consequently connected miscellaneous petitions are closed.

17.11.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes

Mrn

To

1. The State of Tamil Nadu Represented by its,
Secretary to Government,
School Education Department,
Secretariat,
Chennai – 600 009.
2. The Director of Elementary Education,
DPI Complex, College Road,
Chennai – 600 006.
3. The Chief Educational Officer,
Madurai District,
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L.VICTORIA GOWRI, J.

Mrn

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