



W.P.(MD)No.6754 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.6754 of 2018

P.Jeeva

... Petitioner

Vs.

1. The District Elementary Educational Officer,
Tuticorin District.

2. The Assistant Elementary Educational Officer,
Alwarthirunagari Union,
Tuticorin District.

... Respondents

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.99/A2/2018, dated 07.03.2018 and quash the same and direct the respondents to sanction incentive increment for the higher qualification of M.Phil., to the petitioner.



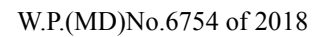
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For Petitioner : Mr.V.Panneer Selvam
For Respondents : Mr.J.Ashok
Additional Government Pleader

ORDER

This Writ Petition has been filed to call for the records of the order passed by the second respondent vide proceedings in Na.Ka.No. 99/A2/2018, dated 07.03.2018, quash the same and direct the respondents to sanction incentive increment for the higher qualification of M.Phil., to the petitioner.

2. The learned counsel appearing for the petitioner would submit that the petitioner was appointed as Secondary Grade Teacher on 01.08.1995. He acquired B.Ed., M.A., for that, he was sanctioned with two sets of incentive increments in the cadre of Secondary Grade Teacher. Thereafter, he was promoted as B.T.Assistant on 26.02.2007. While, he was working as B.T.Assistant, he acquired the higher qualification of M.Phil., on 01.10.2014, for which, he made request on 08.01.2018 to sanction the third



3. The learned Additional Government Pleader appearing for the respondents would submit that the issue that arises in the present Writ Petition, is no longer *res integra* and the same was decided by the Hon'ble Full Bench of this Court in the case of ***Government of Tamil Nadu vs. R.Subramani and others in W.A.Nos.3674 of 2019 etc., batch.*** Accordingly, he prayed for dismissal of the Writ Petition.

5. The facts in the present case are not in dispute. Admittedly, the petitioner was granted two incentive increments and subsequently, he acquired M.Phil, for which, he made an application for third incentive increment and the same was rejected on 07.03.2018. The issue that arises in



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the present Writ Petition, is no longer *res integra* and the same was decided by the Hon'ble Full Bench of this Court in the case of ***Government of Tamil Nadu vs. R.Subramani and others in W.A.No.3674 of 2019 etc., batch,*** wherein, the Hon'ble Full Bench of this Court held that the the teachers are entitled only for two incentive increments and they are not entitled for third incentive increment. In a reference made to the Full Bench, the Full Bench has held as follows:

"12. A perusal of the above order puts the issue beyond pale of doubt that as per the policy of the Government, a teacher for the entire period of his/her service shall be granted two incentives (four increments) only. Therefore, there cannot be any dispute regarding the fact that a Secondary Grade Teacher or B.T.Assistant or Post Graduate Teacher during the entire period of service as a teacher, is entitled to get only two incentive increments. Taking note of the same only, the Division Bench in W.A.No.1664 of 2016 dated 29.06.2018 (The Director of School Education and others v. V.Dhanapal) has categorically held that the acquisition of an M.Phil. qualification does not entitle a teacher for a third incentive increment, in view of G.O.Ms.No.1024, Education, Science



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and Technology Department, dated 09.12.1993 restricting the number of incentive increments to two and therefore, any teacher is not entitled to a third incentive increment. For better understanding, paragraphs 5 to 7 thereof are extracted hereunder:-

“5. Mr.K.Karthikeyan, learned Government Advocate would contend that in view of G.O.Ms.No.1024 dated 09.12.1993, which restricts the maximum number of incentive increments to two and in view of the fact that the respondent had already been granted two incentive increments, which is equivalent to four advance increments, the respondent will not be entitled to any further incentive increment during the period of his service.

A copy of the said G.O. dated 09.12.1993 has been produced before us, the relevant portion of the G.O. reads as follows:

“The maximum number of advance increments which a Teacher can get under the Scheme of incentive increments under this Government Order shall be four in his entire service”.

(one incentive increment is equivalent to two advance increments). The said position was clarified by the



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Government in G.O.Ms.285, School
<https://www.mhc.tn.gov.in/judis> W.A.Nos.3674 of 2019
etc.,batch Education Department dated 28.11.2007, which
reads as follows:

“As per the policy decision of the Government, two incentives (four increments) only may be granted to the teachers for the entire period of their service and hence, accepting the above recommendation of the Director of School Education, for the Headmasters who got only one incentive for M.Ed. qualification during his service as Post Graduate Teachers and promoted to the Headmaster Post and after the promotion as Headmasters, on acquiring M.Phil/Ph.D/PGDTE qualification allowing a second incentive to such Headmasters from the date of the issue of this G.O. is ordered.”

6. Of course, the respondent in his affidavit filed in support of the Writ Petition has referred to certain Government Orders as well as the Orders of this Court granting a third set of incentive increments to certain teachers. The said Government Orders have also been produced before us by the <https://www.mhc.tn.gov.in/judis> W.A.Nos.3674 of 2019 etc.,batch learned Government Advocate, those Government orders have been passed in particular cases,



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considering the peculiar circumstances of the case and the fact that the higher qualification in those cases are obtained, before 09.12.1993, i.e. the date on which the first G.O. i.e. G.O.Ms.No.1023 was passed restricting the number of incentive increments to a maximum of two, during the service of the teacher. Therefore, we do not think that those Government Orders which have been passed taking note of certain special circumstances could be taken as precedents to enable the respondent to claim an incentive increment, which he would not be entitled to otherwise.

7. The policy decision of the Government has been consistent to the effect that the teachers who acquire higher qualifications can be granted two incentive increments equivalent to four advance <https://www.mhc.tn.gov.in/judis> W.A.Nos.3674 of 2019 etc.,batch increments, during the entire tenure of their service.

There is no dispute regarding the fact that the respondent has been awarded two incentive increments for acquiring B.Ed. and M.A. qualifications. Therefore, he cannot, as a matter of right, claim the third set of incentive increments for having obtained M.Phil qualification. We are therefore, unable to sustain the order of the learned Single Judge directing payment of third incentive increment to the



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respondent.”

13. In the light of the above, we are of the considered opinion that the view taken by the Division Bench in W.A.No.1664 of 2016 dated 29.06.2018 (The Director of School Education and others v. V.Dhanapal) that a teacher shall be granted only with two incentive increments, equivalent to four advance increments, for the entire period of his/her service, holds good and the view taken by the Division Bench in W.A.(MD) Nos.701 and 769 of 2015 etc., dated 15.07.2015 (The Director of School Education and <https://www.mhc.tn.gov.in/judis> W.A.Nos.3674 of 2019 etc.,batch others v. S.Amalraj) and the view taken by another Division Bench in W.A.(MD) No.867 of 2014 dated 18.09.2014 (The Director of School Education and another v. N.Balasoundari and another) that a teacher is entitled to the third set of incentive increment, cannot be said to be a good law. We answer the reference accordingly.”

6. Considering the above submissions and taking into account the ratio laid down by the Hon'ble Full Bench of this Court (*supra*), the prayer sought for in the present Writ Petition cannot be granted and this Writ Petition is liable to be dismissed.



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7. Accordingly, this Writ Petition is dismissed. No costs.

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

vji

To

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Tuticorin District.
2. The Assistant Elementary Educational Officer,
Alwarthirunagari Union,
Tuticorin District.



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