



W.P.(MD)No.13085 of 2016

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 13.04.2023**

**CORAM**

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P.(MD)No.13085 of 2016**

**and**

**W.M.P(MD)No.9866,9867 and 17320 of 2016**

S.Vishnu Sankar

... Petitioner

**Vs.**

- 1.The State of Tamil Nadu,  
Represented by its Secretary,  
Department of School Education,  
Fort St. George, Chennai -600 009.
- 2.The Director of School Education,  
College Road,  
Chennai – 600 006.
- 3.The Audit Officer,  
The Regional Accountant Office (Audit),  
School Education Department,  
Madurai – 625 002,  
Madurai District.
- 4.The Chief Educational Officer,  
Tirunelveli District at Tirunelveli.



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5.The District Educational Officer,  
Thenkasi,  
Tirunelveli District.

6.The Headmaster,  
The Government High School,  
Seevanallur,  
Tirunelveli District.

7.The Headmaster,  
The Government Higher Secondary School,  
Oormelalagian,  
Tirunelveli District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, calling for the records relating to the impugned proceedings issued by the 3<sup>rd</sup> Respondent Audit Officer in Na.Ka.No. 2185/A6/14 dated 30.09.2014 directing the petitioner to deposit the excess amount paid to him for acquiring M.Phil Degree and quash the same.

For Petitioner : Mr.S.Xavier Rajini

For Respondents : Mr.V.Omprakash  
Government Advocate

**ORDER**

This writ petition is filed challenging the impugned order, dated  
30.09.2014.



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2. Heard Mr.S.Xavier Rajini, learned counsel appearing for the petitioner and Mr.V.Omprakash, learned Government Advocate appearing for the respondents. Perused the material documents available on record.

3. The petitioner had joined BT Assistant on 15.07.2006 and in addition to that the petitioner was serving as Block Resource Teacher. According to the G.O.Ms.No.42 (Education) dated 10.01.1969, B.T. Assistants are eligible to get one incentive increment for acquiring higher qualification. In addition to B.T. B.Ed. degrees, if the teacher possess or acquire M.A. or M.Sc. qualifies for M.Ed., but still working as B.T. Assistants then they are entitled to additional advance increments. Subsequently the government announce payment of increments to B.T. Assistants vide G.O.Ms.No.1024 (Education, Science & Technology Department) dated 09.12.1993. According to this G.O. the B.T. Assistants are eligible for two advance increments for obtaining M.A. or MSc. And another advance increment for M.Ed. degree.



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4. As on the date of appointment the petitioner was possessing B.Sc. Chemistry, M.Sc. Chemistry and B.Ed. degrees. The respondents have considered the M.Sc. degree and granted one advance increment.

5. In the meanwhile the University have stopped the M.Ed. Degree through distance education and B.T. Assistants who are working in the schools are not eligible to get the two advanced increments for M.Ed. degree. Hence the Association requested to consider to sanction for M.Phil. instead of M.Ed. The government issued incentive increments for M.Phil. without issuing G.O. Thereafter the government sanctioned third incentive increments for acquiring M.Phil. to various B.T. Assistants based on orders of the Court passed in W.A. (MD)No.426 of 2008 dated 27.06.2008.

6. The further contention of the petitioner is that he had completed M.Phil. on 06.03.2012 and he is entitled to incentive increment from the next date of completion of the degree i.e. on 07.03.2013 and the same was granted. But the audit party had objected to the same since the granting of incentive increment for M.Phil. was sanctioned by government only through G.O.(ID)Ms.No.18, (School



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Education (E2) Department) dated 18.01.2013 and the petitioner is entitled from the date of the G.O. i.e. from 18.01.2013 and not from 07.03.2012. Hence the incentive increment granted from 07.03.2012 to 17.01.2013 was sought to be recovered through the impugned order and aggrieved over the same the present writ petition is filed.

7. The contention of the petitioner is that the said GO is continuation of the earlier GO. in G.O.Ms.No.1024 (Education, Science & Technology Department) dated 09.12.1993. Therefore, the petitioner is eligible to get incentive increment from the GO onwards and therefore, granting of incentive increment to the petitioner from the date of completion of the course is correct and hence, recovery is illegal.

8. This Court is not able to accept the contention of the petitioner. Any G.O. granting the benefits would come into effect only from the date of the issuance of the G.O., unless it is mentioned in the G.O. the “effect date”. In the present case the said G.O.(1D)Ms.No.18 has not stated any effective date, in such circumstances the said GO has come into effect from the date of G.O. i.e.



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18.01.2013. Moreover, earlier the government had granted incentive increment for M.Ed., since the Universities had stopped offering the course of M.Ed., then the government had granted incentive increment for M.Phil., that too based on the representation of the B.T. Assistants Association. From this it is evident that the government has taken a policy decision to grant incentive increment for M.Phil. for the first time due to non-offering of M.Ed. course by the Universities. Hence, the petitioner is entitled to incentive increment for M.Phil. degree only from the date of G.O.(1D)Ms.No.18 dated 18.01.2013 and not from the date of passing the M.Phil. degree and the petitioner is not entitled to incentive increment from 07.03.2012 to 17.01.2013. Therefore, the respondents are directed to refix the increment from 18.01.2013 onwards. As far as the recovery is concerned, since the amount is meagre, the respondents are restraining from recovery.

**9.** With these observations and directions, this writ petition is partly allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No  
Internet : Yes  
ksa

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**S.SRIMATHY, J**

**ksa**

**Order made in  
W.P.(MD)No. 13085 of 2016**

**13.04.2023**