



W.P(MD)No.21769 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 08.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD).No.21769 of 2023

K.R.Tamilvannan

...Petitioner

Vs.

1.The Chief Educational Officer,
Trichy.

2.The Secretary,
UDV Higher Secondary School,
Town Railway Station Road,
Trichy.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to sanction the incentive increment for B.P.Ed qualification from 04.06.2011 and refund the amount of Rs.2,94,042/- by considering the G.O.Ms.No.106, School Education Department, dated 16.06.2022 to the petitioner with all consequential benefits.

For Petitioner : Mr.V.Panneer Selvam

For R-1 : Mr.N.Ramesh Arumugam
Government Advocate



W.P(MD)No.21769 of 2023

WEB COPY

ORDER

The present writ petition has been filed seeking direction to the respondents to sanction the incentive increment for B.P.Ed qualification from 04.06.2011 and refund the amount of Rs.2,94,042/- by considering the G.O.Ms.No.106, School Education Department, dated 16.06.2022 to the petitioner with all consequential benefits.

2. Considering the limited scope of the relief sought for herein, notice to the second respondent is dispensed herewith.

3. The petitioner is qualified in B.Com and Higher Grade in Physical Education in regular stream. He is fully qualified for the post of Physical Education Teacher. He was appointed as a Physical Education Teacher in the second respondent School on 08.08.1996 and the same was also approved by the competent authorities. In the meanwhile, he passed B.P.Ed in Ramakrishna Mission Vivekanandha Educational and Research Institute in the faculty of General and Adapted Physical Education and Yoga. The said qualification is a higher qualification. For which, he was sanctioned



W.P(MD)No.21769 of 2023

with one set of incentive increment for the higher qualification of B.P.Ed on 04.06.2011. In the year 2018, the audit raised an objection after a period of seven years that there is no Government order for equivalence for B.P.Ed in Ramakrishna Mission Vivekanandha Educational and Research Institute. Therefore, they recovered an amount of Rs.2,94,042/-, which was sanctioned for the period between 04.06.2011 and 31.08.2019 in 30 installments. As far as equivalence is concerned, the petitioner and other teachers raised continuous agitation and the Government issued order in G.O(Ms)No.106 of the School Education Department, dated 16.06.2022, declaring that the course conducted by the Ramakrishna Mission Vivekanandha Educational and Research Institute is equivalent to B.P.Ed one year. Thus, there is no impediment to release the incentive increment for the aforesaid higher qualification. Hence, the petitioner made a detailed representation to the second respondent on 30.12.2022. However, the same is not considered. Hence, this writ petition came to be filed.

4. The learned Government Advocate for the first respondent brought to my notice that the representation has been sent by the petitioner only to the second respondent and not the first respondent.



W.P(MD)No.21769 of 2023

WEB COPY

5. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

6. In view of the submission made by the learned Government Advocate, the petitioner is directed to make a fresh representation to the second respondent immediately and the second respondent is hereby directed to forward the same with necessary particulars and details to the first respondent within a period of two (2) weeks from the date of receipt of a copy of this order and the first respondent in-turn is directed to pass orders in accordance with law, in the light of G.O(Ms)No.106 of the School Education Department, dated 16.06.2022 within a period of twelve (12) weeks from the date of receipt of a copy of this order.



W.P(MD)No.21769 of 2023

WEB COPY

7. With the above said observation, this writ petition stands disposed of. There shall be no order as to costs.

08.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

1. The Chief Educational Officer,
Trichy.
2. The Secretary,
UDV Higher Secondary School,
Town Railway Station Road,
Trichy.



WEB COPY



W.P(MD)No.21769 of 2023

L.VICTORIA GOWRI, J.,

BTR

W.P(MD).No.21769 of 2023

08.09.2023