



W.P.(MD)No.2193 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2023

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 2193 of 2016

and

W.M.P.(MD)Nos.1908 ,1909 and 9395 of 2016

A.Vincent Arocikasamy

... Petitioner

VS.

1.The State of Tamilnadu,
Represented by its Secretary,
Department of School Education,
Fort St.George,
Chennai – 600 009.

2.The Department of Elementary Education,
College Road,
Chennai – 600 006.

3.The District Elementary Educational Officer,
Pudukottai,
Pudukottai District.

4.The District Elementary Educational Officer,
Audit Section,
Madurai, Madurai District.

5.The Assistant Elementary Educational Officer,
Viralimalai,
Pudhukottai District.

... Respondents



W.P.(MD)No.2193 of 2016

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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Certiorari***, calling for the records relating to the impugned order issued by the 5th respondent AEEO in Na.Ka.No.1746-A1-2015, dated 21.12.2015 and quash the same.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s. Isaac Chambers

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader

ORDER

This writ petition is filed challenging the impugned order, dated 21.12.2015.

2. Heard Mr.K.Ragatheesh Kumar for M/s. Isaac Chambers, learned counsel appearing for the petitioner and Mr.D.Sadiq Raja, learned Additional Government Pleader appearing for the respondents. Perused the material documents available on record.



W.P.(MD)No.2193 of 2016

WEB COPY

3. The petitioner joined service as Secondary Grade Teacher in Panchayat Union Primary School, Koohanur on 22.10.1988, subsequently, he was promoted as Primary School Headmaster on 04.08.1998. Based on the qualification of B.Lit. Degree in Tamil, the petitioner was again promoted as Middle School Headmaster on 13.06.2005 and transferred to various places. The Government has granted incentive increment to Secondary Grade Teacher, vide G.O.Ms.No.42 (Education) dated 10.01.1969. The contention of the petitioner is that Government has granted two incentive increments for Middle School Headmaster, who are promoted with B.Lit. as a basic qualification for acquiring B.Ed. and M.Ed. degree. The petitioner has entered in service on 22.10.1988 with the qualification of higher secondary course and diploma in Teachers Education certificate. Later on, the petitioner has acquired B.Lit. (Tamil) and promoted as Middle School Headmaster with above qualification. The Assistant Elementary Education Officer, vide proceedings, dated 16.02.2009 has granted permission to study M.A. Degree in Tamil in May 2009 from the Annamalai University. After completion of the same, two incentive increments were granted to the petitioner. Thereafter, the petitioner did B.Ed., degree, after obtaining permission through



W.P.(MD)No.2193 of 2016

WEB COPY

proceedings, dated 10.02.2010. After completion of the same, the petitioner sought another incentive increment for B.Ed. degree and the same was sanctioned with effect from 11.11.2011, vide proceedings dated 10.12.2012. Subsequently, the respondents have canceled the incentive increment, vide proceedings, dated 21.12.2015 based on the audit objection. The objection is that the petitioner being the Middle School Headmaster he is eligible for two incentive increments for acquiring M.A. degree, but directed to repay the incentive degree increment granted for B.Ed. degree and the Assistant Education Elementary Officer further directed the petitioner to repay the entire excess amount which was received until 30.11.2015 with immediate effect. The contention of the petitioner is that he was promoted as Middle School Headmaster based on B.Lit. degree, thereafter, he did B.Ed., degree. The respondents have denied the incentive increment by stating that B.Ed., degree is not higher qualification when the petitioner is serving as Middle School HM. Aggrieved over the same, the present writ petition is filed.

4. At the time of admission, this Court has granted interim stay. The respondents have filed counter along with vacate stay petition.



W.P.(MD)No.2193 of 2016

WEB COPY

5. In the counter, it is stated that the petitioner has joined Secondary Grade teacher and thereafter, promoted as Middle School Headmaster on 11.06.2005. As per G.O.Ms.No.1383 Education (PUS-I) Department, dated 23.08.1988 has framed Special Rules for Elementary Education Subordinate Services. The prescribed qualification for Middle School Headmaster as per the G.O.Ms.No.1297 School Education Department, dated 21.07.1979 is any Bachelor Degree. B.Lit. with Tamil Pulavar certificate holder were promoted as Middle School Headmaster without the qualification of B.Ed., in order to encourage the medium of education in Tamil and to study Tamil as a subject in Degree level. The Government has considered the same as a special case and promoted B.Lit. decrees as Middle School Headmaster. In the post of Middle School Headmaster itself, the petitioner has got a pay on par with the Headmaster of Middle School who have promoted with B.Ed. qualification. The guidelines for awarding incentive increment to Tamil Pandits are explained in G.O.Ms.No.107 School Education dated 20.01.1979. Since B.Ed. Degree is a basic qualification for the post of Middle School Headmaster as per G.O.Ms.No.42 Education Department, dated 10.01.1969, hence, there is no way to treat B.Ed., degree as



W.P.(MD)No.2193 of 2016

WEB COPY

higher qualification for the post of Middle School Headmaster. Therefore, the petitioner is not entitled to claim incentive increment for acquiring B.Ed. and hence, there was an audit objection to this effect. Based on the audit objection the impugned order came to be passed and it is legally sustainable. Therefore, the respondents prayed to dismiss the writ petition.

6. After hearing the rival submissions this Court has given its anxious consideration. It is an admitted fact that based on the B.Lit. degree the petitioner was already promoted as Middle School Headmaster. The qualification prescribed under Special Rules for the Middle School Headmaster is B.Ed., degree. In order to promote Tamil, the Government has taken a policy decision to keep the B.Lit. Degrees on par with B.Ed., degree. Since both B.Lit. and B.Ed., are treated on par, the B.Ed., degree cannot be termed as higher qualification. The incentive increment is granted for acquiring higher qualification. Since B.Lit. and B.Ed. are treated on par, then B.Ed., cannot be considered as higher qualification. Therefore, the claim of the petitioner to grant incentive increment for B.Ed., is erroneous.



W.P.(MD)No.2193 of 2016

WEB COPY

7. This Court has elaborately dealt with the issue in W.P.(MD)No. 1237 of 2016 vide order dated 21.03.2022 and has held that when the B.Ed. and B.Lit. is treated on par based on the rule amendment, then the B.Ed. cannot be treated as higher qualification. The relevant portion is extracted hereunder:

“13. It is seen after the issuance of G.O. Ms. No. 42, the rule was amended. Under Rule 6 and Annexure referred to in Rule 6(B)(i) of the Special Rules for the Tamil Nadu Elementary Educational Subordinate Service Rule prescribes qualification for the post of Headmasters of the Middle School is as under:

Name of Category	Method of Appointment	Qualification
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W.P.(MD)No.2193 of 2016

WEB COPY

Headmaster of Middle Schools (B.Ed., grade)	Promotion and Transfer	1.A degree of any University in the State or a degree of equivalent standard and B.T. or B.Ed. degree of any University in the State or 2.(a) A degree in Tamil of any University in the State or (B)Minimum General Educational Qualifications as defined in Schedule I to the General Rules for the Tamil Nadu State and Subordinate Service and Title of Oriental Learning conferred by any University in the State in the Language Provided that persons appointed as Tamil Pandit in any School prior to 01.04.1976 shall be eligible for appointment in any other School even after 01.04.1976 and 3.B.T., or B.Ed., degree of any University in the State or a Senior Basic Grade Trained Teachers Certificate or successful completion of the Pandit Training Course of Diploma in Teaching awarded by any University in the State.
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14. On perusal of these Government Orders, it has been specifically stated that acquiring B.Ed., will not be considered as higher qualification and they are not entitled to. The concept behind this is that the Tamil Nadu Government in order to promote Tamil has taken the policy decision to grant promotion for Tamil Pandits with B.Lit. qualification as Primary School Headmaster or Middle School Headmaster and treat them on par with the B.T. And B.Ed., degree. Therefore, the Government has taken the policy decision that B.Lit., and B.Ed., are on par, that is why in the subsequent clarification there was a deliberate omission of granting advance increments for B.Ed., degree. The



W.P.(MD)No.2193 of 2016

WEB COPY

petitioner has referred to some judgments, but in all these judgments, the subsequent clarification issued by the Government was not referred at all. With great respect to these judgments, this Court is of the considered opinion that since the judgments have not referred the subsequent clarification Government Orders and the amendment of rule, this Court is of the considered opinion that the petitioner is not entitled to incentive increments based on the Government Orders stated supra and the discussions as stated supra. Therefore, there is no infirmity on merits.”

8. In view of the above, the petitioner is not entitled to get incentive increment for B.Ed. Degree. Hence, the impugned order is legally sustainable. Since the petitioner is not entitled to any incentive for B.Ed. Degree, the recovery order passed by the respondents is legally sustainable. The petitioner is still in service. Therefore, the respondents are directed to recover the same by way of installments.

9. With these observations, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.



W.P.(MD)No.2193 of 2016

WEB COPY

Index : Yes / No
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14.02.2023



W.P.(MD)No.2193 of 2016

WEB COPY

To

- 1.The Secretary,
State of Tamilnadu,
Department of School Education,
Fort St.George,
Chennai – 600 009.
- 2.The Department of Elementary Education,
College Road,
Chennai – 600 006.
- 3.The District Elementary Educational Officer,
Pudukottai,
Pudukottai District.
- 4.The District Elementary Educational Officer,
Audit Section,
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Madurai District.
- 5.The Assistant Elementary Educational Officer,
Viralimalai,
Pudhukottai District.



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W.P.(MD)No.2193 of 2016

S.SRIMATHY, J

ksa

Order made in
W.P.(MD)No. 2193 of 2016

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