



WEB COPY



W.P.(MD)No.3242 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.3242 of 2016

and

W.M.P.(MD)Nos.2833 and 9464 of 2016

Selvaraj

... Petitioner

vs.

- 1.The Secretary to Government,
School Education Department,
Secretariat, Chennai-600 009.
- 2.The Director,
Directorate of School Education,
College Road, Chennai- 600 006.
- 3.The District Elementary Educational Officer,
(Audit Section), Madurai.
- 4.The District Elementary Educational Officer,
Pudukkottai.



W.P.(MD)No.3242 of 2016

WEB COPY

5.The Assistant Elementary Educational Officer,
Viralimalai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records of the 5th respondent passed in the proceedings Na.Ka.No.1745-A1-2015, dated 21.12.2015 and to quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai
For Respondents : Mr.V.Omprakash
Government Advocate

ORDER

This writ petition is filed for writ of Certiorari, to quash the proceedings, dated 21.12.2015 of the 5th respondent.

2. The petitioner has passed SSLC in 1981, HSC in 1983. Thereafter, he completed UG degree in Commerce in April 1989 and joined the department as Secondary Grade Teacher on 07.08.1997 and



W.P.(MD)No.3242 of 2016

WEB COPY

was transferred to various places. Subsequently, he qualified PG degree in Commerce in the year 2000 from Annamalai University. The petitioner was promoted as Primary School Headmaster on 30.12.2004. Again, the petitioner passed M.A. Degree in Tamil in the year 2009 and passed B.Ed. Degree in the year 2010.

3. The petitioner is seeking incentive increment for B.Com., M.Com., and B.Ed., qualifications and the same was allowed granting two incentive increments for M.Com., and two incentive increments for B.Ed. However, subsequently, the 5th respondent deducted Rs.5,825/- from the salary for the month of December 2015 and issued the impugned communication, dated 21.12.2015. The contention of the petitioner is that he was not granted sufficient opportunity to explain and the respondents have not issued any notice. Without following the principles of natural justice, the respondents have directly deducted the amount. Aggrieved over the same, the petitioner is before this Court.



WEB COPY



W.P.(MD)No.3242 of 2016

4. The 4th respondent has filed a counter affidavit stating that the petitioner is working as a Secondary Grade Teacher, therefore, the petitioner cannot claim incentive increment for acquiring B.Com., since Commerce is not a subject in Elementary School Education, the petitioner cannot claim incentive increment for M.Com., also. But the same was wrongly given to the petitioner. Hence, in the subsequent proceedings, the respondents deducted the incentive increments granted to the petitioner. Therefore, there is no infirmity in the impugned order and prayed to dismiss the writ petition.

5. Heard Mr.G.Prabhu Rajadurai, learned Counsel appearing for the petitioner and Mr.V.Omprakash, learned Government Advocate appearing for the respondents and perused the records.

6. Admittedly, the petitioner is taking class for Secondary Grade students i.e., for standards 1 to 5. The children studying in standards 1 to



W.P.(MD)No.3242 of 2016

WEB COPY

5, the subjects are English, Tamil, Maths, Science and Social Science. Commerce is not being taught in Secondary Grade education. It is only a subject in Higher Secondary Education. The concept of granting incentive increment is to encourage teachers to acquire higher qualification so that the students would be benefitted by the said higher qualification. The petitioner's higher qualification is not going to benefit the students who are studying standards 1 to 5. If the petitioner is promoted to Higher Secondary Education as P.G. Assistant then the petitioner may be entitled to incentive increment. As on date when the petitioner is continuing as Secondary Grade Teacher, then the petitioner's qualification would not be useful for the students studying in standards 1 to 5 and hence the petitioner is not entitled to get incentive for M.Com.

7. In future if the petitioner is granted any promotion for taking classes for Higher Secondary Education, i.e., for standards 11 and 12,



W.P.(MD)No.3242 of 2016

WEB COPY

especially for Commerce group, then the petitioner's case may be considered in future and not now.

8. Therefore, at this stage, while taking classes for secondary grade, the petitioner is not entitled to get incentive increment. Therefore, the impugned order is sustained.

9. However, the contention of the petitioner is that he has not misrepresented, therefore, the amount already paid need not be deducted, since there is no misrepresentation on the part of the petitioner. This Court is of the considered opinion that even though there is no misrepresentation, the petitioner is very well aware that the subject is not taught to standards 1 to 5 and he is not eligible for incentive increments. Therefore, in order to grant overall justice, 50% of the amount paid to the petitioner shall be recovered and for the balance 50%, the respondents are restrained from recovering. The respondents are at liberty to refix the



W.P.(MD)No.3242 of 2016

WEB COPY

correct salary to the petitioner. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above said observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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

30.03.2023

Tmg



WEB COPY



W.P.(MD)No.3242 of 2016

To

- 1.The Secretary to Government,
School Education Department,
Secretariat, Chennai-600 009.
- 2.The Director,
Directorate of School Education,
College Road, Chennai- 600 006.
- 3.The District Elementary Educational Officer,
(Audit Section), Madurai.
- 4.The District Elementary Educational Officer,
Pudukkottai.
- 5.The Assistant Elementary Educational Officer,
Viralimalai.



WEB COPY



W.P.(MD)No.3242 of 2016

S.SRIMATHY, J

Tmg

W.P.(MD)No.3242 of 2016

30.03.2023