



W.P.(MD).No.23508 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2023

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THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.23508 of 2023

and

W.M.P(MD)No.19709 of 2023

K.Jeyanthi

... Petitioner

Vs.

- 1.The State of Tamil Nadu
represented by its
Secretary to Government,
School Education Department,
Secretariat,
Chennai.
- 2.The Director of School Education,
O/o. the Director of School Education,
College Road,
Chennai-6.
- 3.The Chief Educational Officer,
O/o. the Chief Educational Officer,
Palani Road,
Dindigul,
Dindigul District.
- 4.The Headmaster,
Government Higher Secondary School,
Agaram, Dindigul District.



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5. The Registrar,
Vinayaga Missions University,
Ariyanoor,
Salem 636 308.

... Respondents

Prayer : Writ Petition 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 fourth respondent in his proceedings in Na.Ka.No.103/2022, dated 13.09.2023 and quash the same as illegal.

For Petitioner : Mr.H.Mohammed Imran
for M/S.Ajmal Associates

For R-1 to R-4 : Mr.V.Om Prakash
Government Advocate

For R-5 : Mr.S.Anwar Sameem

ORDER

The present writ petition has been filed by a P.G.Assistant (Zoology) working in the fourth respondent school to quash the order passed by the fourth respondent herein on 13.09.2023, wherein the incentive increments granted to the writ petitioner were cancelled on the ground that the M.Phil., degree acquired by the writ petitioner is from an unrecognized institution, which is arrayed as fifth respondent herein.



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2. According to the writ petitioner, she joined as a P.G. Assistant (Zoology) on 02.09.2010 at Kattukudipatti, Sivagangai District. She completed M.Phil., (Zoology) in the year 2008 from the fifth respondent University. Based upon her higher qualifications, an incentive increment was granted to her. Now, the present impugned order has been issued on the ground that the said M.Phil., degree obtained through distance education is not valid in the eye of law and cancelled the incentive increments granted to her.

3. The petitioner had brought to the notice of the Court, a judgment of the Hon'ble Division Bench of this Court in a batch of writ appeals in ***W.A.Nos. 2328 of 2018 etc., (S.Sivan Vs. The Regional Accounts Officer and Others)*** dated 04.08.2023, wherein this Court in paragraph No.24 had pointed out that for the period between 2007 and 2012, the University Grants Commission has granted recognition to the fifth respondent University for conducting M.Phil., courses through distance education. Based upon the said fact, the Hon'ble Division Bench of this Court was pleased to allow the writ appeals filed by the concerned Teachers and directed the authorities to confer with the incentive increment.



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4.*Per contra*, the learned Government Advocate appearing for the official respondents pointed out that under G.O(Ms)No.91, Higher Education (K2) Department, dated 03.04.2009, a direction has been issued by the Higher Education Department that, M.Phil / Ph.D courses should not be offered through distance education from the academic year 2007 - 2008 and they should be offered only in the regular stream. Therefore, in view of the said Government order, the show cause notice is sustainable.

5.Heard the submissions made on either side and perused the materials available on record.

6.There is no dispute that the petitioner had joined M.Phil course in the year 2007 and completed the same in the year 2008 in the fifth respondent University through distance education. The Hon'ble Division Bench of this Court in W.A.Nos.2328 of 2018, dated 04.08.2023 had an occasion to consider G.O(Ms)No.91, dated 03.04.2009. In paragraph Nos.33 and 34 of the said judgment, the Hon'ble Division Bench of this Court has held that the bar under



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G.O(Ms)No.91 will apply only for the entry level post and it would not be a bar for conferment of incentive increment.

7.In view of the above said facts, the impugned order passed in Na.Ka.No.103/2022 by the fourth respondent dated 13.09.2023 is set aside. The respondents are directed to continue to pay the incentive increment.

8.With the above said observation, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

NCC : Yes / No
Index : Yes / No
Internet : Yes
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07.11.2023

To

- 1.The Secretary to Government,
School Education Department,
Secretariat,
Chennai.
- 2.The Director of School Education,
O/o. the Director of School Education,
College Road, Chennai-6.



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3. The Chief Educational Officer,
O/o. the Chief Educational Officer,
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