



W.P(MD)No.25328 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2023

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.25328 of 2023

and

W.M.P(MD)No.21523 of 2023

Rajeswari Bai

... Petitioner

Vs.

1.The Director of Elementary Education,
DPI Complex,
College Road,
Chennai-6.

2.The District Educational Officer (Elementary),
Pattukkottai,
Thanjavur District.

3.The Block Educational Officer,
Ammapettai,
Thanjavur District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the 3rd respondent by his proceedings in Na.Ka.No.1484/A1/2023, dated 18.08.2023 and quash the same.



W.P(MD)No.25328 of 2023

For Petitioner : Mr.G.Karnan

For Respondents : Mr.V.Om Prakash
Government Advocate

ORDER

The present writ petition has been filed by a Secondary Grade Teacher challenging an order passed by the 3rd respondent herein wherein the incentive increments granted to the writ petitioner was sought to be recovered.

2. According to the learned counsel appearing for the writ petitioner, the petitioner had joined as a Secondary Grade Teacher with M.Com qualification on 16.07.2009. Later, one incentive increment was conferred upon her for having acquired M.Com qualification. The petitioner herein had approached the authorities seeking permission to undergo B.Ed course. Such a permission was granted on 28.06.2010 permitting the writ petitioner to undergo B.Ed course in the academic year 2009-2011. Based upon the said permission, the petitioner had undergone B.Ed course.



W.P(MD)No.25328 of 2023

WEB COPY

3. For acquiring B.Ed degree, the petitioner was granted second increment. However, under the impugned order, the authority has sought to recover the said amount only on the ground that the M.Com degree would not be useful to the students who are studying in classes 1 to 5. Therefore, the grant of incentive increment for acquiring M.Com and B.Ed degree was sought to be recovered. This order is under challenge in the present writ petition.

4. According to the learned counsel appearing for the writ petitioner, as per G.O.Ms.No.1023, Education Science & Technology Department, dated 09.12.1993, a Secondary Grade Teacher is eligible for two advance increments after having obtained B.Ed degree. The teacher is also eligible for another two advance increments whenever she acquires M.A., M.Sc or M.Ed qualification. Therefore, B.Ed qualification obtained by the writ petitioner after entering into service with the permission of the department cannot be considered to be unnecessary qualification or the incentive increment that was granted to the said qualification cannot be recovered. The learned counsel for the petitioner has further contended that there was no misrepresentation on the side of



W.P(MD)No.25328 of 2023

the petitioner and at the request of the petitioner for M.Com degree, such an incentive increment has been conferred. Therefore, the authorities cannot recover the same now.

5. Per contra, the learned Government Advocate appearing for the respondents herein had contended that the petitioner had already obtained M.Com degree even before joining service. Therefore, the said degree cannot be considered to be additional qualification after entering into service. He further contended that B.Ed degree has been obtained only based upon the M.Com degree. Therefore, incentive increment ought not to have been granted even for the said B.Ed degree. Hence, he prayed for sustaining the order impugned in the writ petition.

6. I have carefully considered the submission made on either side and perused the material records.

7. As far as the M.Com degree obtained by the writ petitioner is concerned, admittedly this degree has been obtained prior to the date of appointment. As per G.O.Ms.No.1023, dated 09.12.1993, the incentive increment could be granted only if a candidate acquires M.A or M.Sc or



W.P(MD)No.25328 of 2023

M.Ed qualification. Therefore, it is clear that the M.Com is not mentioned as one of the qualification, for which incentive increment could be conferred upon a Teacher. However, on an application, without any misrepresentation on the part of the Teacher, the said incentive increment has already been granted. Therefore, the question of recovering the said amount from the said teacher would not arise.

8. As far as the acquisition of B.Ed degree is concerned, even as per G.O.Ms.No.1023, dated 09.12.1993, when a Secondary Grade Teacher acquires B.Ed qualification, she is eligible for two advance increments. In fact, in the present case, the petitioner had undergone B.Ed course after obtaining prior permission from the authorities. Therefore, incentive increment already granted on the basis of the B.Ed degree cannot be found to be at fault.

9. In view of the above said facts, the incentive increments that were already granted to the writ petitioner cannot be recovered at this length of time. In view of the above said facts, the order impugned in the writ petition is set aside.



W.P(MD)No.25328 of 2023

WEB COPY

10. Hence, this Writ Petition stands allowed to the extent as stated above. No costs. Consequently, connected Miscellaneous Petition is closed.

30.11.2023

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

To

- 1.The Director of Elementary Education,
DPI Complex,
College Road,
Chennai-6.
- 2.The District Educational Officer (Elementary),
Pattukkottai,
Thanjavur District.
- 3.The Block Educational Officer,
Ammapettai,
Thanjavur District.

R.VIJAYAKUMAR,J.



WEB COPY



W.P(MD)No.25328 of 2023

gbg

Order made in
W.P(MD)No.25328 of 2023

Dated:
30.11.2023