



W.P.(MD).No.25405 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.25405 of 2023
and
W.M.P(MD) No.21573 of 2023

D.Charles

... Petitioner

Vs.

1. The Secretary to Government,
School Education Department,
Secretariat, Chennai – 600 009.
2. The District Educational Officer
(Elementary School)
Chief Educational Office Complex,
Tallakulam,
Madurai – 625 002.
3. The Block Educational Officer,
Madurai East,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent i.e., the Block Educational Officer, Madurai East in R.C.No.A406/A1/2021, dated 16.04.2021 and R.C.No. 1886/A1/2022, dated 24.08.2022 and quash the same and consequently



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direct the respondents to refund the amount of Rs.3,33,998/- recovered incentive increment for M.A., (Economics) and Rs.3,93,530/- recovered incentive increment for B.Ed., Degree, within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.V.Om Prakash
Government Advocate

ORDER

The present writ petition has been filed by a retired Secondary Grade Teacher, challenging the order of recovery of incentive increment that was already granted to him.

2. According to the learned counsel appearing for the writ petitioner, the petitioner had joined the Panchayat Union Middle School as Secondary Grade Teacher. At the time joining service, he was already having M.A., (Economics) Degree. After joining service, he had acquired B.Ed., Degree. The Department had conferred upon him the incentive increment with effect from 27.06.2013 for M.A., (Economics) as well as for B.Ed., Degrees. He was receiving the said amount till 30.04.2021. Thereafter, due to audit objection, it was stopped.

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3. The petitioner had attained superannuation on 30.09.2022. In the meantime, on 16.04.2021, an order of recovery has been passed to recover the incentive increment already granted, based upon the M.A., (Economics) qualification. Another impugned order came to be passed on 24.08.2022 seeking to recover the incentive increment that was granted for acquiring B.Ed., Degree qualification. These two orders are under challenge in the present writ petition.

4. According to the learned counsel appearing for the writ petitioner, when the incentive increments for M.A(Economics) and B.Ed.,Degrees were granted to the writ petitioner on 27.06.2013, G.O.(Ms) No.1023, Education Science and Technology Department, dated 09.12.1993 was inoperation. Based upon the Government Order, the incentive increments were conferred. Therefore, the State cannot rely upon the clarification letter, dated 24.08.2016 to recover the incentive increments that were already granted.



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5. Per contra, the learned Government Advocate appearing for the respondents had contended that after the clarification letter, the incentive increments ought not to have been continued. Therefore, order of recovery is perfectly valid.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the material on records.

7. The petitioner has been granted two advance increments for acquiring B.Ed., Degree and another two advance increments for acquiring M.A., Degree (Economics). Both these advance increments have been granted to the writ petitioner with effect from 27.06.2013. On the date when the incentive increments were sanctioned, G.O.(Ms) No.1023, Education Science and Technology Department, dated 09.12.1993 was inoperation. As per the said Government Order, there is no reference about the subject, in which, they have to acquire additional qualifications. That apart, the acquisition of B.Ed., Degree by a Secondary Grade Teacher makes them eligible for two advance increments.



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8. Therefore, four advance increments granted to the writ petitioner are perfectly in compliance with the Government Order, dated 09.12.1993. That apart, a clarification letter has been issued by the Director of School Education only on 24.08.2016 imposing various conditions. However, the said clarification letter would not be applicable to the writ petitioner.

9. On the date when the incentive increments were granted to him, he was fully eligible to receive the incentive increments, and that apart, the petitioner had retired from service on 30.09.2022, and during the fag end of his service, two impugned orders have been issued seeking to recover the incentive increments granted to the writ petitioner.

10. In view of the above said facts, the order impugned in the writ petition is set aside and the respondent authorities are directed to refund amount already recovered by the respondent towards M.A., (Economics) and B.Ed., Degrees to the writ petitioner within a period of twelve weeks from the date of receipt of a copy of this order.



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11. With the above said observations, this Writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous petition is closed.

04.12.2023

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

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R.VIJAYAKUMAR,J.

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