



W.P.(MD).No.28817 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.28817 of 2023

and

W.M.P(MD) No.24866 of 2023

D.P.Laura
B.T.Assistant (English)
Government Girls Higher Secondary School,
Ambasamudram Taluk,
Tirunelveli District.

... 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,
Office of the Director of School Education,
College Road, Chennai-6.
- 3.The Chief Educational Officer,
Office of the Chief Educational Office,
Tirunelveli, Tirunelveli District.
- 4.The Headmaster,
Government Girls Higher Secondary School,
Ambasamudram Taluk,
Tirunelveli 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 Mandamus, directing the respondents to repay the incentive increment which was already paid by the petitioner and consequently direct the respondent to continue to pay the incentive increment to the petitioner for having acquiring the M.Phil Degree in Vinayaga Missions University by considering the petitioner's representation dated 07.09.2023 within the time that may be stipulated by this Court.

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

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

ORDER

The present Writ Petition has been filed by a B.T Assistant (English) seeking a mandamus as against the respondent authority to refund the incentive increment which was wrongly recovered from the petitioner and consequently seeking a direction to continue to pay the incentive increment.



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2. According to the learned counsel appearing for the writ petitioner, the petitioner had passed M.Phil., Degree in English in the year 2009, based upon the said higher qualification conferred upon the writ petitioner from 18.01.2013.

3. In the year 2016, audit objection was raised that M.Phil., Degree obtained from the fifth respondent University is an unapproved and not recognized and therefore, the petitioner was directed to refund the entire incentive increment. Accordingly, the petitioner refunded the entire incentive increment on 18.04.2019. Thereafter, the petitioner has sent a representation to the respondents on 07.09.2023 pointing out that the Hon'ble Division Bench order of this Court in W.A.No.2328 of 2018, dated 04.08.2023 to the effect that M.Phil Degree conferred by the fifth respondent University for the academic year 2007 – 2008 and 2008 – 2009 have been approved by the UGC. The said representation has not been considered. Hence, the present writ petition has been filed.



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4. The learned Counsel appearing for the writ petitioner brought to the notice of the Court, the judgment of the Hon'ble Division Bench of this Court, in a batch of writ appeals in ***W.A.Nos.2328 of 2018 etc., dated 04.08.2023, (Mr.S.Sivan Vs. The Regional Accounts Officer, (Audit) Department of School Education, Coimbatore and others)***, wherein, Paragraph No.24 of the Hon'ble Division Bench of this Court is pleased to point out that between 2007 to 2012, Vinayaka Mission University was given institution wise recognition by the UGC and therefore, the Teachers, who had joined the Course either in the year 2007 or in the year 2008 and completed either in the year 2008 or in the year 2009, have been granted a valid Degree.

5. In view of the above said facts of the present case, the judgment of the Hon'ble Division Bench of this Court is squarely applicable to the facts of the present case, in view of the fact that the petitioner had passed out in the year 2009.

6. In view of the above said deliberations, the respondents 1 to 4 herein are directed to refund the already recovered incentive increments and



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continue to pay the incentive increment to the writ petitioner. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above said observations, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

06.12.2023

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

- 1.The Secretary to Government,
School Education Department,
Secretariat, Chennai.
- 2.The Director of School Education,
Office of the Director of School Education,
College Road, Chennai-6.
- 3.The Chief Educational Officer,
Office of the Chief Educational Office,
Tirunelveli, Tirunelveli District.



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R.VIJAYAKUMAR,J.

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