



W.P.(MD).No.28863 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.28863 of 2023

P.Muthupandi

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Represented by Secretary to Government,
School Education Department,
Fort St.George, Chennai-09.
- 2.The Director of School Education,
College Road, Chennai-6.
- 3.The Regional Accounts Officer,
Office of the Regional Accounts Office (Audit),
School Education Department, Madurai-625 002.
- 4.The District Educational Officer,
Tenkasi.
- 5.The Secretary,
Sri Paramakalyani Higher Secondary School,
Alwarkurichi, Tenkasi District-627 412.
- 6.The Assistant Controller of Examinations,
Vinayaga Missions University,
Salem.

... Respondents



W.P.(MD).No.28863 of 2023

WEB COPY

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, direct the respondents to refund the withheld incentive increment of Rs.4,55,906/- and continue to pay the incentive increment for the petitioner's M.Phil., degree as per representation, dated 30.10.2023 within the time limit stipulated by this Court.

For Petitioner : Mr.R.Saravanan

For R1 to R4 : Mr.V.Om Prakash
Government Advocate

ORDER

The present Writ Petition has been filed by a Vocational Teacher 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.

2. According to the learned counsel appearing for the writ petitioner, the petitioner had passed M.Phil., Degree in Commerce in the year 2009. Based upon the said higher qualification, incentive increment was conferred upon the writ petitioner from 18.08.2010.



W.P.(MD).No.28863 of 2023

WEB COPY

3. In the year 2016, audit objection was raised that M.Phil., Degree obtained from the 6th respondent University which is unapproved and not recognized and therefore, the petitioner was directed to refund the entire incentive increment. Accordingly, the petitioner refunded the entire incentive increment in 20 equal installments. Thereafter, the petitioner has sent a representation to the respondents on 30.10.2023 pointing out that the Hon'ble Division Bench order of this Court 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)***, to the effect that M.Phil Degree conferred by the 6th 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.

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,***



W.P.(MD).No.28863 of 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 continue to pay the incentive increment to the writ petitioner. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.



W.P.(MD).No.28863 of 2023

WEB COPY

7. With the above said observations, this Writ Petition stands allowed.

No costs.

07.12.2023

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

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W.P.(MD).No.28863 of 2023

R.VIJAYAKUMAR, J.

gbg

W.P.(MD).No.28863 of 2023

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