



WEB COPY



W.P.No.118 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

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THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No. 118 of 2020

and

W.M.P.Nos.146 of 2020 & 17149 of 2021

I.Gopalakrishnan

.... Petitioner

Vs

1. The Regional Accounts Officer (Audit),
Department of School Education,
Coimbatore – 641 001.

2. The Director,
Directorate of School Education,
Chennai – 600 006.

3. The Chief Educational Officer,
Namakkal,
Namakkal District.

4. The Head Master,
Government Higher Secondary School,
Namakkal South,
Namakkal – 637 001.

.... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned orders made in Na.Ka.No.1596/E8/2019, dated 22.08.2019 passed by the first



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respondent and the consequential order dated nil passed by the fourth respondent, quash the same, and consequently direct the respondents to continue the payment of incentive for qualifying M.Phil degree.

For Petitioner : Mr.N.Manoharan

For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 22.08.2019 and the consequential order passed by the fourth respondent, thereby ordered to recovery.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner was qualified with Master of Physical Education and Sports Science (M.P.ES) in the year 1991. He also completed his M.Phil. He was appointed as Physical Director on 13.10.2000 in the Government Higher Secondary School, Aravakurichi. At present he is working in the fourth respondent School and sanctioned with incentive increment for higher qualification with effect from 13.10.2000. While being so, the first respondent conducted an audit for



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the year 2017-2018 and 2018-2019 and filed its report and thereby raised objections with regard to incentive increment for qualifying M.Phil degree on the ground that the incentives were paid without any Government orders. Based on the report, the fourth respondent had passed an order and directed to refund a sum of Rs.3,17,704/-. As per Government order in G.O.Ms.No.324, dated 25.04.1995, the petitioner was granted incentive increment for his higher qualification of M.Phil.

4. A perusal of the impugned audit report reveals that the incentive increment was granted to the petitioner against the order passed in G.O.Ms.No.177, School Education, dated 13.10.2016. The relevant portion of the G.O.Ms.No.324, Education, Science and Technology Department, dated 25.04.1995, reads as follows :

“5. The Government accordingly direct that

(i) the condition (i) to (iii) in para 3 of G.O.Ms.No.624, Education, dated 13.07.92 be deleted.

(ii) For the sanction of incentive increments the subject in the Higher Secondary Syllabus shall be relevant subjects.

(iii) In respect of the teachers in Physical Education they are eligible for the incentive for higher qualification only in physical education.



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(iv) Those orders will take retrospective effect from 17.9.86 to cover past cases.”

(v) The teachers who have acquired higher qualification in subjects other than higher secondary Syllabus shall not be eligible for any incentive increment.”

5. Admittedly, the petitioner is qualified with Master of Physical Education and Sports Science and M.Phil in Physical Education. Therefore, the petitioner had obtained M.Phil, in the very same subject viz., Physical Education. Therefore, the petitioner is entitled for incentive increment for M.Phil. On perusal of the G.O.Ms.No.177, School Education, dated 13.10.2016 reveals that the employees getting second incentive increment from the date of issuance of said Government order. Therefore, it relates to second incentive increment.

6. As far as the petitioner is concerned, the petitioner has claiming first incentive increment for his M.Phil as per G.O.Ms.NO.324, dated 25.04.1995 and accordingly, the petitioner was granted first incentive increment from the date of his initial appointment. Therefore



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G.O.Ms.No.177, School Education, dated 13.10.2016 is not at all applicable to the petitioner.

7. In view of the audit objections raised, G.O.Ms.No.177, School Education, dated 13.10.2016 cannot be sustained and the subsequent order of recovery is also unsustainable. Accordingly, the order passed by the first respondent dated 22.08.2019, is hereby quashed. The respondents are directed to continue payment of incentive increment for the qualification of M.Phil degree of the petitioner.

8. In the result, this writ petition stands allowed. Consequently, connected miscellaneous petitions are closed. No costs.

13.08.2024

Internet : Yes
Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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To

1. The Regional Accounts Officer (Audit),
Department of School Education,
Coimbatore – 641 001.



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