



W.P.No.2072 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2024

CORAM:

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

W.P.No.2072 of 2024 and
WMP.No.2227 of 2024

P.Silambarasan

...Petitioner

VS

1. The Government of Tamilnadu,
Rep. by Chief Secretary to the Government,
Human Resources Management,
Fort St., George,
Chennai - 600 009.

2. The Secretary to Government,
School Education Department,
Fort St., George, Chennai-600 009.

3. The Director of School Education,
College Road,
Chennai-600 006.

4. The Chief Educational Officer,
Thiruvannamalai,
Thiruvannamalai District.

...Respondents



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PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records of the respondents in relation to G.O.Ms.No.95, Human Resources Management (FR-IV) Department dated 26.10.2023 issued by the first respondent and quash the same insofar as the petitioner is concerned and issue a consequential direction to the respondents to grant incentive increments to the petitioner for acquiring and possessing M.Phil qualification before 10.03.2020 as per the then existing Scheme of award of incentive increments, in response to the promise made in the G.O.Ms.No.37, Personnel and Administrative Reforms (FR-IV) Department dated 10.03.2020 and G.O.Ms.No.116, Personnel and Administrative Reforms (FR-IV) Department dated 15.10.2020 with arrears of pay.

For Petitioner : Mr.R.Saseetharan

For Respondents : Mr.R.Neelakandan
Additional Advocate General
Assisted by
Dr.T.Seenivasan,
Special Government Pleader

ORDER

This writ petition has been filed challenging the Government Order in G.O.Ms.No.95, Human Resources Management (FR-IV) Department dated 26.10.2023 passed by the first respondent.

2. In this case, the petitioner is the P.G. Assistant and he is



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qualified with M.Phil degree. As per the existing scheme of incentive increment introduced by the Government of Tamilnadu by several Government Orders for different categories of teacher of various higher qualifications which the teacher possess or acquire, over and above the prescribed qualification. Under the G.O.Ms.No.1170, dated 20.10.1993, and G.O.Ms.No.194, dated 10.10.2006, a P.G. Assistant is entitled for incentive increment for possessing higher qualification of M.Phil degree. The Government of Tamilnadu has introduced the Scheme of Award of Incentive Increment by G.O.Ms.No.42, dated 10.01.1969 which has been in force after several amendments to suit the convenience of the day for over 50 years till 10.03.2020 when the Government of Tamilnadu by G.O.Ms.No.37, dated 10.03.2020 in which the Government has abolished the Scheme of Incentive Increment given in the time Scale of Pay to the teachers prospectively with a direction that the teachers who acquired higher qualification till 10.03.2020 are entitled for incentive increments for the higher qualifications as per the existing Government Orders which occupies the field.

2.1. The petitioner submitted his application to grant incentive increment to the Head Master on 02.11.2020 and 04.05.2022. The



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impugned G.O.Ms.No.95 dated 26.10.2023 thereby held that Government of Tamilnadu has taken away the benefit given in the above said two Government Orders and stating that both the categories of Teachers i.e., Teachers who acquired qualification before 10.03.2020 and after 10.03.2020 are entitled only for incentive by way of lump sum and not in the time scale of pay.

2.2. The further case of the petitioner is that under G.O.Ms.No.95, Human Resources Management Department dated 26.10.2023, Government servants who acquired higher qualification after 26.10.2023 and Government servants who acquired higher qualification prior to 10.03.2020 being the date of G.O.Ms.No. 37 but not sanctioned due to various administrative reasons are treated equally resulting in unequals being treated equally violating Article 14 of the Constitution. The Government servants who have acquired the higher qualification prior to 10.03.2020 should be treated separately and incentives in their salary should be sanctioned.



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2.3 The further case of the petitioner is that there are many cases where the higher qualifications were acquired prior to 10.03.2020 being the date of G.O.Ms.No.37 Personal and Administrative Reforms Department additional incentives have been sanctioned without any objections from the audit department like in the case of Agriculture and Farmers Welfare Department. As per the G.O.Ms.No.116 Personnel and Administrative Reforms Department dated 15.10.2020, clarifications of the cancellation of the Scheme of sanction of advance increment in all departments issued. As such, the cases of Government Servants who have acquired higher qualification prior to the date of issue of the Government order as read above and not sanctioned with advance increment/not applied for sanction of advance increment by the Government servant concerned may be examined separately as per para 6(vi) of the Government order as read above and appropriate orders to be issued before 31.03.2021. The specific stand of the petitioner is that the Government ought to have passed orders before 31.03.2021 sanctioning additional increment for Government servants who have acquired additional qualifications.



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3. Heard, the learned counsel appearing on either side.

4. In this regard, the Government had already passed G.O. (Ms) No. 37, Personnel and Administrative Reforms (FR-IV) department, dated 10.03.2020, it has clearly been mentioned as follows:-

"The cases of Government servants who have acquired higher qualification prior to issue of this general order, and not sanctioned with advance increments be examined separately as per the previous orders issued, if any, by the administrative department concerned and with reference to the posts specified in that order and if he is otherwise qualified, then the advance increment may be sanctioned by the administrative department concerned after obtaining concurrence of Finance department. If no previous orders were issued by any of the department concerned, then they are not eligible for sanction of any advance increments for passing higher qualification irrespective of the post held/degree acquired."

5. Certain clarification have been issued in G.O.(Ms) No.116, P&AR (FRIV) Dept., dated 15.10.2020 i.e., the cases of Government Servants who have acquired higher qualification prior to the date of issue of G.O. (Ms) No. 37, P&AR Dept., dated 10.03.2020 and appropriate orders to be issued before 31.03.2021. Based on the orders issued in G.O.



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(Ms) No.116, P&AR (FRIV) Dept., dated 15.10.2020, the cut off date for granting advance increment who have acquired higher qualification prior to 10.03.2020 has been extended from 10.03.2020 to 31.03.2021. Further, on exemption basis, all the pending claims have been allowed until the orders issued in G.O. (Ms) No. 95, Personnel and Administrative Reforms (FR-IV) Department, dated 26.10.2023.

6. Further, as a policy measure for welfare of Government Servants a new policy has been adopted on the analogy of Government of India and orders have been issued in G.O.Ms.No.120, Human Resources Management (FR-IV) Department, dated 01.11.2021, for granting incentive in the form of one-time lumpsum amount to the State Government Employees for having acquired additional qualification after 10.03.2020 as follows:-

<i>Sl.No.</i>	<i>Higher Qualification</i>	<i>Amount</i>
1.	Ph.D	25,000/-
2.	PG Degree or equivalent	20,000/-
3.	Degree/Diploma	10,000/-

7. Further, substantial number of claims are pending from candidates with higher educational qualifications. Hence, to expeditiously process and bring clarity to the scheme of granting incentive, in partial



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modification of the orders issued in GO (Ms)No. 116, Personnel and Administrative Reforms (FR-IV) Department, dated 15.10.2020 and G.O. (Ms)No. 120, Human Resources Management (FR-IV) Department, dated 01.11.2021 and clarifications issued in Letter No.4470/FR-IV/2022-1, Human Resources Management (FR-IV) Department, dated 18.02.2022, the cut-off date for sanction of advance increments for having acquired higher educational qualifications ended and the new scheme of sanction of lumpsum amount is ordered to take effect from 10.03.2020.

8. Thus, the clarification issued in G.O. (Ms)No.116, Personnel and Administrative Reforms (FR-IV) Department, dated 15.10.2020 and Letter No.4470/FR-IV/2022-1, Human Resources Management (FR-IV) Department, dated 18.02.2022 are harmonized to ensure that, all pending applications as on 10.03.2020 and claims made subsequently for sanction of benefits for having acquired higher educational qualifications shall be disposed as per this new scheme of granting lumpsum incentives only and



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not the earlier scheme of granting increments in salary. This principle would ensure expeditious disposal of all pending claims, and also maintain parity and equal treatment between the claims pending as on date and for the persons acquiring higher educational qualifications in future also. Even though the Petitioners have acquired their higher educational qualification prior to 10.03.2020, as per the orders issued in G.O. (Ms) No. 95, Personnel and Administrative Reforms (FR-IV) Department, dated 26.10.2023, the petitioners are not eligible for sanction of advance increment for acquiring higher qualification since by the orders issued in the above, the lumpsum amount shall be granted only for those who have acquired higher qualification and not sanctioned with advance increment till date.

9. Now, as per the above Government Orders, those who had completed additional qualification are entitled to have only lumpsum incentive. Therefore, the request of the petitioners cannot be considered. As such, this writ petition is devoid of merits and liable to be dismissed.



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10. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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

To

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Thiruvannamalai,
Thiruvannamalai District.

G.K.ILANTHIRAIYAN, J.

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