



WEB COPY

W.P.No.4170 of 2020



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2024

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.4170 of 2020

and

W.M.P.No.4928 of 2020

A.V.Venkatesan

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai 600 009.

2.The Director of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.

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

4.The District Educational Officer,
Sengam Educational District,
Tiruvannamalai District.

5.The Block Educational Officer,
Pudupalayam Block,
Tiruvannamalai District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to



issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.20553/D3/2016 dated 31.08.2016 and the subsequent proceedings order issued by the 5th respondent in Na.Ka.No.349/A1/2018 dated 22.04.2019 and to quash the same and consequently directing the respondents to sanction incentive increment to the petitioner for having acquired the qualification of B.Com/M.Com., & B.Ed., from the date of acquiring the degree or from the date of appointment whichever is earlier, with all consequential and other attendant benefits

For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : Mr.K.H.Ravikumar,
Government Advocate

ORDER

The petitioner who was initially appointed as Secondary Grade Teacher has acquired B.Com/M.Com degree and B.Ed degree after he entered into the service and then, he made a claim for award of incentive increment for having acquired the said degrees. The said claim of the petitioner was considered and the same was negatived by the respondents by passing the impugned orders. Aggrieved by the impugned orders dated 31.08.2016 and 22.04.2019 passed by the respondents 2 and 5 respectively, the petitioner approached this Court by filing the present writ petition.



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2. The entitlement or dis-entitlement of the Secondary Grade Teacher for award of incentive increment on acquiring B.Com, M.Com and B.Ed degrees has fallen for consideration before this Court recently in W.P.No.19221 of 2021. This Court by an order dated 03.06.2024 having considered the said aspect in elaborate has concluded that the Secondary Grade Teacher who acquired B.Com and M.Com degrees are not entitled for award of incentive increment in the absence of any specific Government orders providing such incentive increment and also concluded that in the light of various Government orders, Secondary Grade Teacher are entitled for award of incentive increment on acquiring B.Ed degree acquired after their appointment and the relevant portion from the above said order is reads as under:

“4.The award of incentive increment itself is a concessions or an advantage conferred upon various teachers but not a service condition. Concession or an advantage that is conferred by the Government on various teachers can be claimed strictly in terms of the said Government Orders but not otherwise. Admittedly, there is no Government Order providing for award of incentive increments for acquiring the B.Com/M.Com degree. However, there is a specific Government Order, as noted above, for award of incentive increments, in case if the Secondary Grade Teachers acquires the B.Ed degree. Admittedly, in the instant case the



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petitioner has acquired B.Ed degree after she was appointed as Secondary Grade Teacher and therefore, the entitlement of the petitioner for award and continuance of the incentive increment in respect of B.Ed qualification cannot be denied. But, unfortunately, the respondents having found that the petitioner is not entitled for award of incentive increment in respect of M.Com degree have erroneously canceled the advance increments awarded in favour of the petitioner even in respect of B.Ed degree as well and accordingly refixed the pay of the petitioner.

5.In the circumstances, this Court does not find any error in the impugned order, insofar as canceling the incentive increments that were awarded in respect of M.Com degree acquired by the petitioner. However, the impugned order is bound to be declared as illegal, insofar as the same cancels the incentive increment that was awarded in respect of B.Ed degree acquired by the petitioner.

6.Accordingly, the impugned order is partly set aside to the extent of canceling the incentive increment that was awarded in favour of the petitioner through proceedings dated 02.07.2015 in respect of B.Ed degree only. Accordingly, the 3rd respondent is directed to refix the pay of the petitioner duly continuing the incentive increments that were awarded in favour of the petitioner in respect of



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B.Ed degree and issue proceedings afresh as expeditiously as possible within a period of eight weeks from the date of receipt of a copy of this order. The amount if any liable to be recovered from the petitioner consequent on cancellation of the incentive increments awarded in favour of the petitioner for M.Com degree is concerned, the said amounts may be recovered from the petitioner.

7. Consequent upon refixation of the pay of the petitioner by continuing the incentive increments in respect of B.Ed degree, if any arrears are due and payable to the petitioner, the same can be adjusted against the amounts recoverable from the petitioner and the balance if any shall be paid to the petitioner.”

3. In the light of the above, the claim of the petitioner for award of incentive increment for acquiring B.Com/M.Com is not sustainable. However, his claim for award of incentive increment on acquiring B.Ed degree cannot be rejected and he is entitled for award of incentive increment for B.Ed degree. Accordingly by following the decision of this Court in W.P.No.19221 of 2021, the 4th respondent is directed to consider the claim of the petitioner for award of incentive increment on acquiring B.Ed degree and in case, if the petitioner is found to have acquired such degree, the 4th respondent shall extend the benefit



of incentive increment from the date of his entitlement and shall pass appropriate orders in this regard as expeditiously as possible at any rate within a period of twelve (12) weeks from the date of receipt of a copy of this order.

4. Accordingly, the writ petition is partly allowed and the connected miscellaneous petitions if any, shall stand closed. No costs.

02.07.2024
(4/7)

dpa

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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State of Tamil Nadu,
School Education Department,
Secretariat, Fort St. George,
Chennai 600 009.

2. The Director of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.



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MUMMINENI SUDHEER KUMAR, J.
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