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W.P.No.5499 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2024

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THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.P.No.5499 of 2020
and
W.M.P. No.6440 of 2020

M.Tamizh Mani

... Petitioner

Vs.

1. The District Elementary Educational Officer,
District Elementary Educational Office,
Tiruvannamalai District.

2. The Assistant Elementary Educational Officer,
Assistant District Educational Office,
Polur, Thiruvannamalai District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned rejection order passed in Na.Ka. No. 348/A1/2017 dated 17.04.2017 by the second respondent and quash the same as illegal and consequently direct the respondents to grant incentive increment to the petitioner for his higher educational qualification (M.Com., B.Ed.,) from the date of his eligible.



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For Petitioner : Mr. K.Gandhikumar

For Respondents : Mr.M.Muthusamy
Government Advocate

ORDER

The instant Writ Petition has been filed challenging the order of rejection from granting incentive increment for higher qualification.

2. The learned counsel for the petitioner would submit that the petitioner was appointed as a Secondary Grade Teacher on 01.10.1990 at Kaveripakkam Union School, Vellore District. Thereafter, he studied and completed a B.Com (Commerce) degree during 1995. In pursuance thereof, he also completed M.Com (Commerce) degree during 2011. It is the contention of the learned counsel that the petitioner, being deeply interested in the teaching profession, he subsequently joined a B.Ed course and completed it during 2013.

3. It is pertinent to mention here that all the above-said degrees were pursued with the permission of the respondents. The learned counsel for the



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petitioner would submit that, since the petitioner possesses higher qualifications, he sent a representation seeking an incentive increment. However, such request was erroneously rejected by relying upon the proceedings of the Director of Elementary Education, and by wrongly invoking G.O. Ms. No. 134, School Education (G2) Department dated 15.06.2007. Hence, the counsel would submit that the impugned rejection order is erroneous and liable to be interfered with.

4. Per contra, the learned Government Advocate appearing for the respondents would vehemently contend that, as per G.O. Ms. No. 907, Personal & Administrative Reforms (FRII) Department dated 17.09.1986, higher qualifications should be relevant to the area of specialization, and not in any unrelated subject. He would further contend that, in any case, incentive increments cannot be granted for M.Com (Commerce) and B.Ed. degrees, as the petitioner's higher degrees would in no way serve any purpose to the children of the middle school.

4.1 It is the further contention of the learned Government Advocate that G.O. Ms. No. 324, Education, Science and Technology Department (F2)



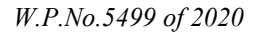
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dated 25.04.1995 would only apply to the School Education Department, where Secondary Grade Teachers have an opportunity to be promoted as BT Assistants. Whereas, the petitioner is serving in a Middle School. Therefore, there are no occasion to invoke the above Government Order in the petitioner's case. The learned Government Advocate has also relied upon the order passed by this Court in W.P. No. 1169 of 2012, dated 26.07.2019, wherein a similar request of M.Com degree holder was rejected for an incentive increment. Hence, he prayed to dismiss the instant Writ Petition.

5. I have given anxious consideration to the submissions made on either side.

6. The learned counsel for the petitioner took this Court through various Government Orders, specifically G.O. Ms. No. 624, Education (E2) Department, dated 13.07.1992, which sanctions incentive increments to school teachers for acquiring higher qualifications, subject to the conditions laid down below:-

*“3(i) Sanction of incentive increments to a teacher
for acquiring higher qualification in particular subject to*



the condition that the teacher will also be required to teach that in addition to the subject teacher used to teach."

7. There was an anomaly and difficulty in implementing the above Government Orders, specifically G.O. Ms. No. 624 and another G.O. Ms. No. 324, Education, Science and Technology Department (F2) dated 25.04.1995, wherein the grant of incentive to teachers for acquiring higher qualifications in a particular subject was conditional upon the teacher being required to teach the additional subject based on needs, in addition to their basic subject. This condition was found difficult to be implemented. Accordingly, the above conditions have been deleted in G.O. Ms. No. 324, Education, Science and Technology Department (F2) dated 25.04.1995.

8. The relevant portion of the said G.O. Ms. No. 324, Education, Science and Technology Department (F2) dated 25.04.1995 is extracted hereunder:-

“5. The Government accordingly direct that

(i) The conditions (i) to (iii) in para 3 of G.O. Ms. No. 624, Education, dated 13.07.1992 be deleted.

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



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relevant subjects.

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

(iv) These orders will take retrospective effect from 17.09.86 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.

6. This order issues with the concurrence of Finance vide its U.O.No.285/Js (IF) Education, dated 24.04.1995."

9. The learned counsel would invite the attention to Clause 5(ii) of the said Government Order, wherein it is stipulated that for the sanction of incentive increments, the subject in the Higher Secondary syllabus shall be the relevant subject. Therefore, in this background, the learned counsel for the petitioner would submit that for entitlement to incentive increments, the relevant factor to be considered is whether the individual has a higher qualification in the subject taught to Higher Secondary students.

10. In respect of the Higher Secondary syllabus, the learned counsel



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for the petitioner relied upon G.O. Ms. No. 46, School Education (Q2) Department, dated 14.05.2004. In Annexure-I of this Order, Commerce is listed as one of the subjects in Group III. In this scenario, the learned counsel would submit that, since the petitioner admittedly possesses a higher qualification of M.Com, and when Commerce is one of the subjects in the Higher Secondary syllabus, he is entitled to incentive increments, which has been erroneously rejected by the second respondent.

11. The second respondent's rejection order relies on G.O. Ms. No. 134, School Education (G2) Department, dated 15.06.2007, and the proceedings of the Director of Elementary Education, dated 24.08.2016. However, upon reading G.O. Ms. No. 134, School Education (G2) Department, dated 15.06.2007, which is part of the typed set. It is evident that this Order pertains only to the modalities for promoting Middle School teachers to Headmaster positions, and did not address providing incentive increments for higher qualifications. Furthermore, the impugned proceedings of the Director of Elementary Education did not consider G.O. Ms. No. 324, Education, Science and Technology Department (F2), dated 25.04.1995.



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12. A harmonious reading of G.O. Ms. No. 324, Education, Science and Technology Department (F2), dated 25.04.1995, makes it abundantly clear that to receive an incentive increment, a person must possess a higher qualification in subjects relevant to the Higher Secondary syllabus. Furthermore, G.O. Ms. No. 46, School Education (Q2) Department, dated 14.05.2004, unequivocally states that Commerce is one of the subjects in the Higher Secondary syllabus.

13. Therefore, as rightly contended by the learned counsel for the petitioner, since the petitioner possesses a higher qualification in Commerce, namely M.Com, the proceedings dated 24.08.2016 by the Director of Elementary Education cannot override the rights already conferred upon the petitioner by virtue of G.O. Ms. No. 324, Education, Science and Technology Department (F2), dated 25.04.1995. Notably, the proceedings of the Director of Elementary Education did not to consider G.O. Ms. No. 324, Education, Science and Technology Department (F2), dated 25.04.1995.

14. It is a well-settled principle of law that whenever any right is conferred upon parties, it cannot be withdrawn suddenly without a justifiable



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reason. In the present case, though the proceedings of the Director of Elementary Education, relied upon in the impugned order, denying the increment, the same is contrary to the Government Order. Since the Government Order prevails over the proceedings of the Director of Elementary Education, this Court finds force in the submission made by the petitioner and concludes that there are merits in favour of the petitioner.

15. In view of the above detailed discussion, the impugned order dated 17.04.2017, passed by the second respondent, is hereby quashed. Consequently, the respondents are directed to grant incentive increments to the petitioner for his higher educational qualification, in accordance with applicable rules and law, within a period of eight weeks from the date of receipt of a copy of this order.

16. In the result, this Writ Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

25.10.2024

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Index : Yes/No



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Speaking order /Non Speaking Order
Neutral Citation : Yes/No

To

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District Elementary Educational Office,
Tiruvannamalai District.
2. The Assistant Elementary Educational Officer,
Assistant District Educational Office,
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C.KUMARAPPAN, J.

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