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W.P.Nos. 11078 of 2023 etc batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos. 11078, 11082, 11085, 11087, 11089, 11091 & 11093 of 2023

W.P.No.11078 of 2023

P.Vadivel

....

Petitioner

Vs

1. State of Tamil Nadu,
Through the Ministry of School Education,
Tamil Nadu State Government,
Secretariat, Fort St.George,
Chennai – 600 009.

2. Department of School Education,
Directorate of School Education,
DPI Complex, 17 College Road,
Nungambakkam, Chennai – 600 006.
Through its Commissioner.

3. The Office of the Chief Education Officer,
Through the Chief Education Officer,
Tiruppur District,
Tiruppur – 641 604.

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Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents No.1 & 2 to sanction and disburse the incentive increment to the petitioner for the completion of the Higher Education, as per G.O.Ms (1D) No.18, School Education Department, dated 18.01.2013.



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In all the Writ Petitions

For Petitioners : Mr.S.Kalyanaraman

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

COMMON ORDER

These Writ Petitions have been filed for a direction directing the respondents to sanction and disburse the incentive increments for completion of their higher education as per Government order.

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

3. All the petitioners were working as Teachers. While they were in service, they obtained permission to pursue their higher education. Accordingly, they completed their higher education. They submitted their respective claim for incentive increment for acquiring higher qualification. It was not considered. Hence, this writ petition.

4. The learned counsel appearing for the petitioner would submit that as per G.O.Ms.No.37, Personnel and Administrative Reforms



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(FR-IV) Department, dated 10.03.2020, the Government servants who had acquired higher qualification prior to the date of issue of the Government order dated 10.03.2020 and who were not sanctioned with an advance increment, who had not applied for sanction of advance increment by the Government servant concerned may be examined separately and their claim will be considered. However, so far, the claims of petitioners were not considered and it is pending. The relevant portion of G.O.Ms.No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020 is extracted hereunder :

“6 (vi) 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.”



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5. Thereby, as a policy decision, the scheme of sanction of advance increment for acquiring higher qualification in all departments and all orders issued by all departments for sanction of advance increment for possessing higher qualification, as a whole, be cancelled/dispensed with immediate effect. In the same order, it is stated that the cases of Government servants who have acquired higher qualification prior to issue of the said Government order and not sanctioned with advance increments be examined 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, than the advance increment may be sanctioned by the administrative department concerned after obtaining concurrence of Finance Department. In the same paragraph, it is further stated that 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.

6. Further, subsequent to the said Government order another order has been passed in G.O.Ms.No.95, Human Resources Management (FR-IV) Department, dated 26.10.2023. The relevant portion is extracted hereunder :



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“7. Now, it has come to the notice of the Government that 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 modification of the orders issued in the Government Order second and third read above and clarifications issued in the Government Letter fourth read above, 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. Thus, the clarification issued in Government Order second read above and the Government Letter fourth read above 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 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.

8. The Government, therefore, directs that the Government Servants, who acquire additional



educational qualifications including those who have already submitted applications seeking incentive therefore, shall henceforth be granted only with one time lumpsum as ordered in the Government Order third read above and the following guidelines are issued :-

(i) The incentive will not be available for the qualifications which are laid down as essential or desirable qualifications in the recruitment rules for the post.

(ii) No incentive shall be allowed for acquiring higher qualification purely on academic or literary subjects. The acquisition of the qualification should be directly related to the functions of the post held by him/her, or to the functions to be performed in the next higher post. There should be direct nexus between the functions of the post and the qualification acquired and that it should contribute to the efficiency of the government servant.

(iii) The quantum of incentive will be uniform for all posts, irrespective of their classification or grade or the Department.

(iv) The incentive shall not be admissible where the Government servant is sponsored by the Government or he/she avails study leave for acquiring the qualification.



(v) *The incentive would be given only for higher qualification acquired after induction into service.*

(vi) *No incentive would be admissible if an appointment is made in relaxation of the educational qualification. No incentive would be admissible if employee acquires the requisite qualification for such appointment at a later date.*

(vii) *The qualifications meriting grant of incentive should be recognized by University Grants Commission, respective regulatory bodies like All India Council for Technical Education (AICTE) etc, set-up by Central/State Government or recognized by the Government.*

(viii) *The incentive shall be limited to maximum two times in an employee's career, with a minimum gap of two years between successive grants.*

(ix) *The Government servant should prefer the claim within six months from the date of acquisition of the higher qualification in respect of future claims.*

(x) *The claims already rejected by the Departments concerned are not eligible for grant of lumpsum amount.*

(xi) *The lumpsum amount shall be granted only for those who have acquired higher qualification and not sanctioned with advance increment till date.*



(xii) The Administrative Department, shall issue order separately in this regard, after examining the existing qualifications prescribed in the Service Rules, the duties, roles and responsibilities of the relevant posts, additional educational qualifications required for performing the relevant duties, the ways in which the higher educational qualifications for the said posts would be beneficial to the development activities of the Department and to the Government by and large and then issue orders in consultation with the Human Resources Management and Finance Departments.

7. Therefore, 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 the new scheme of granting lumpsum incentive only and not the earlier scheme of granting increments in salary. As per G.O.Ms.No.120, Human Resources Management (FR-IV) Department, dated 01.11.2021, it was ordered to grant incentive in the form of one time lumpsum amount for having acquired additional qualification after 10.03.2020. Accordingly, those who acquired Ph.D degree will get lumpsum incentive of Rs.25,000/- and those who acquired PG degree will get lumpsum incentive of Rs.20,000/-



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and those who acquired Degree or Diploma will get lumpsum incentive of Rs.10,000/-. Therefore, the claim made by the petitioner in all the writ petitions cannot be considered for incentive increment. However, they are entitled for lumpsum incentive increment for additional qualification as per G.O.Ms.No.120, dated 01.11.2021.

8. In view of the above, the respondents are directed to consider the claim of the petitioner and disburse the lumpsum incentive for acquiring higher qualification within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above direction, these Writ Petitions stand disposed of. No costs.

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Internet : Yes/No
Index:Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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G.K.ILANTHIRAIYAN, J.

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To

1. The Ministry of School Education,
Tamil Nadu State Government,
Secretariat, Fort St.George,
Chennai – 600 009.

2. The Commissioner,
Department of School Education,
Directorate of School Education,
DPI Complex, 17 College Road,
Nungambakkam, Chennai – 600 006.

3. The Chief Education Officer,
Office of the Chief Education Officer,
Tiruppur District,
Tiruppur – 641 604.

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