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W.P.No.9644 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.9644 of 2021

Porselvi

... Petitioner

Vs.

1.The Director of Secondary Education,
Directorate of School Education,
DPI Complex, College Road,
Chennai 600 006.

2.The District Educational Officer,
Perambalur.

3.The Chief Educational Officer,
Perambalur.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to grant incentive increment in accordance with G.O.Ms.No.42, Education Department, dated 10.01.1969 and as subsequently amended from time to time from 22.05.2013.

For Petitioner : Mr.Sunny Sheen for
Mrs.V.Srimathi

For Respondents : Mr.P.Gurunathan, AGP for R1 to R3



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ORDER

This Writ Petition has been filed for the issuance of a Writ of Mandamus, to direct the respondents to grant incentive increment in accordance with G.O.Ms.No.42, Education Department, dated 10.01.1969 and as already granted incentive increment on 22.05.2013.

2. Heard Mr.Sunny Sheen, learned counsel for the petitioner and Mr.P.Gurunathan, learned Additional Government Pleader for the respondents.

3. The learned counsel for the petitioner submitted that the petitioner had completed M.Com B.Ed. and for which, she was granted with an incentive increment which was subsequently withdrawn in the year 2015 on the ground that M.Com degree is not considered as a higher qualification for incentive increment. The petitioner gave a request to allow the incentive increment.



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4. Having considered the acquisition of M.Com degree as a higher qualification in terms of G.O.Ms.No.42, Education Department, dated 10.01.1969, the petitioner has been given with an advance increment. However, the learned Additional Government Pleader for the respondents submitted that as per the latest Government Order in G.O.Ms.No.37 dated 10.03.2020, the scheme of advance increment in all Department is cancelled and hence, the petitioner cannot claim that she is entitled for incentive increment.

5. In G.O.Ms.No.116 dated 15.10.2020, many clarifications are given. One such clarification is with regard to the acquisition of higher qualification by the Government servants prior to the issuance of G.O.Ms.No.37 dated 10.03.2020. The Government has clarified that in respect of all those persons who have acquired higher qualification prior to the date of issuance of G.O.Ms.No.37, but 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 G.O.Ms.No.37 dated 10.03.2020 and appropriate orders to be



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issued on or before 31.03.2021. The above clause 6(vi) of G.O.Ms.No.37 dated 10.03.2020 would read as under :

"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 orders 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."

6. So the language of the Government Order in G.O.Ms.No.37 dated 10.03.2020 and clarification issued in G.O.Ms.No.116 dated 15.10.2020 would only show that the Government Order does not contemplate anywhere to cancel the incentive increment that had been



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already allowed to the Government servant by virtue of acquisition of higher qualification prior to the date of issuance of the order in G.O.Ms.No.37 dated 10.03.2020.

7. In fact, a Government Servant who had acquired higher qualification prior to the issuance of Government order is also not deprived of getting the benefit of incentive increment. The petitioner had already acquired higher qualification prior to the issuance of the Government Order and for whom the advance increment has already been sanctioned and it was also disbursed to her. Under such circumstances, there is no question of withdrawing the incentive increment in terms of G.O.Ms.No.37 dated 10.03.2020. Since the petitioner has made a representation in this regard and the same has not been considered, I feel a suitable direction should be given.

8. In the result, this Writ Petition is disposed and the respondents are directed to consider the representation of the petitioner in the light of G.O.Ms.No.37 dated 10.03.2020 and also by taking into consideration of



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the clarification given in G.O.Ms.No.116 dated 15.10.2020 and pass orders to allow the petitioner to continue to avail the incentive increment that has already granted to her, within a period of four weeks from the date of receipt of a copy of this order. No costs.

14.03.2024

Index : Yes /No

Speaking / Non-speaking

Neutral Citation : Yes / No

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R.N.MANJULA, J.

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