



W.P.No.10100 of 2021.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2024

CORAM

**THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER
KUMAR**

W.P.No.10100 of 2021

and W.M.P.No.10730 of 2021

J.Swaminathan

...Petitioner

Vs.

1.The Director of Elementary Education,
DPI Campus, College Road,
Chennai0- 600 006.

2.The District Educational Officer,
Thiruvarur Educational District,
Thiruvarur District.

3.The Block Educational Officer,
Nannilam Block,
Thiruvarur District.

4.The Secretary



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Aided Elementary School,
Vazhkai,
Nannilam Taluk-610 105,
Thiruvavarur District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, praying to call for the records relating to the impugned order issued by the 4th respondent in No.Nil dated 19.10.2010 and to quash the same and consequently directing the respondents 1 to 3 to sanction the incentive increment to the petitioner for having acquired M.A., degree qualification, with all consequential benefits including payment of interest for the delay in sanctioning the incentive increment attributable against the 4th respondent School Management and other consequential service benefits.

For Petitioner : Mr.S.Nedunchezhiyan

For RR1 to R3 : Mr.K.H.Ravikumar
Government Advocate

For R4 : No Appearance



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ORDER

The petitioner herein, who was appointed as Secondary Grade Teacher on 25.09.1989 in 4th respondent/School, which is a Government Aided School, governed by the provisions of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973, acquired B.A.(History) degree in the year 1993 and B.Ed, degree in the year 1995 and acquired M.A.(History) degree in the year 2010. Thereafter, the petitioner made a claim for award of incentive increment for acquiring higher qualification, by submitting a representation before the 4th respondent and the said claim of the petitioner was not considered. Therefore, the petitioner approached this Court by filing W.P.No.12592 of 2013 and this Court by order dated 11.09.2020, directed the respondents herein to consider the representation dated 08.04.2013 submitted by the petitioner. It is pursuant to the said order, the 4th respondent having considered the said representation dated 08.04.2013, passed the impugned order, rejecting the request made by the petitioner on the ground that the petitioner acquired M.A(History) post graduate qualification without obtaining prior permission from the 4th respondent and thereafter, the petitioner is not entitled for award of incentive



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increment for having acquired such Post Graduate qualification. It is aggrieved by the said order, the petitioner has approached this Court by filing the present writ petition.

2. The learned counsel for the petitioner contended that the 4th respondent is not entitled to reject the request made by the petitioner, in the light of the law laid down by this Court declaring that not obtaining prior approval from the management for acquiring higher qualification, cannot be a ground for rejecting the benefit of incentive increments as the same is only an irregularity, but not an illegality and placed reliance on the orders passed by this Court in W.P.(MD)No.4576 of 2020 and batch, dated 10.03.2020 and another decision in W.P.(MD).No.12472 of 2014, dated 04.10.2019. He also further contended that the 4th respondent is not the authority who can consider the request for award of incentive increment and it is in fact the 2nd respondent herein who is the competent authority to consider the entitlement or otherwise the petitioner for award of incentive increment for acquiring the higher qualification.

3.The 4th respondent has not filed any counter affidavit nor there



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is any representation before this Court. Though the 2nd respondent filed a counter affidavit stating that, if the 2nd respondent is to consider the claim of the petitioner, it is only in the event of submission of the proposals by the 4th respondent, the 2nd respondent can consider the claim of the petitioner and pass appropriate orders in accordance with law.

4. Heard learned counsel for the petitioner and the learned Additional Government Pleader and perused the entire material available on record.

5. On a perusal of the impugned order, it is noticed that only on the ground on which the 4th respondent rejected the claim of the petitioner for the award of incentive increment, is not obtaining prior approval of the 4th respondent for acquiring the Post Graduate qualification. The learned counsel for the petitioner, rightly contended that the 4th respondent is not entitled to reject the claim of the petitioner on that ground by placing reliance on the orders passed by this Court. Be that as it may, even if the petitioner is found eligible for award of incentive increment, the 4th



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respondent cannot award such incentive increment and he can only submit proposals for consideration of the claim of the petitioner in accordance with law. But for the reasons best known, the 4th respondent rejected the claim of the petitioner by itself and passed order dated 19.10.2020 which is impugned in W.P.No.12592 of 2013.

6.In the above said circumstances, the impugned order is wholly unsustainable and the same is accordingly set aside. Further, the 4th respondent is directed to submit the proposals to the 2nd respondent for considering the claim of petitioner for award of incentive increment for having acquired Post Graduate qualification, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that the 4th respondent is entitled to make recommendation and observations on the entitlement of the petitioner for award of such incentive increment and on submission of such proposals by the 4th respondent, 2nd respondent shall consider the same and pass appropriate orders in accordance with law within a period of six weeks from the submission of the proposal by the 4th respondent. The 2nd respondent shall take into consideration the order passed by this Court in W.P(MD).No.4576 of 2020 and batch, dated 10.03.2020



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while passing order as directed above.

7. Accordingly, the writ petition stands disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

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vsn

Index: Yes/No

Speaking/Non-speaking order

Neutral case citation: yes/no

To

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