



W.P. No.11652 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE VIVEK KUMAR SINGH

W.P.No.11652 of 2021

and

W.M.P.Nos.12395 & 12396 of 2021

M.Y.Abdur Rahman

... Petitioner

Vs.

1.The District Educational Officer,
Cheyyar Education District,
Tiruvannamalai District.

2.The Block Educational Officer,
Vandavasi Block,
Tiruvannamalai District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, calling for records relating to the impugned proceedings issued by the first respondent in Na.Ka.No.3585/Aa3/2020 dated 19.09.2020 and subsequent impugned order of recovery issued by the second respondent in Na.Ka.No.786/A1/2020 dated 28.04.2021 and to quash the same.

For Petitioner	:	Mr.S.Nedunchezhiyan
For Respondents	:	Mr.S.Prabhakaran Government Advocate



ORDER

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This Writ Petition has been filed for quashment of the impugned proceedings of the first respondent in Na.Ka.No.3585/Aa3/2020 dated 19.09.2020 and subsequent impugned order of recovery issued by the second respondent in Na.Ka.No.786/A1/2020 dated 28.04.2021.

2. The petitioner herein was appointed as a Secondary Grade Teacher (SGT) on 29.02.2008 in Elementary Education in Virudhachalam Block, Cuddalore District. Thereafter, he was promoted to the post of Primary School Headmaster in Urud Minority School in the year 2014. Even prior to his appointment as a Secondary Grade Teacher, the petitioner had acquired B.com and B.Ed degree in the year 2008. The petitioner was sanctioned with an incentive increment for having acquired B.Com and B.Ed qualification. When the proposal has been forwarded for regularization of the promotion of the petitioner to the post of Primary School Headmaster, it was found that the first respondent had issued a communication dated 19.09.2020 addressed to the second respondent stating that, the grant of incentive increment for acquiring B.Com and B.Ed qualification is not permissible under



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G.O.Ms.No.42 Education Department dated 10.01.1969 and that the said incentive increments given should be recovered. In view of the aforesaid communication of the first respondent, the second respondent issued the impugned order dated 28.04.2021 for recovery of incentive increment granted to the petitioner. Aggrieved by the same, the petitioner approached this Court by way of filing the present petition.

3.Through the impugned proceedings, the respondents have ordered recovery of incentive increment that was awarded for having acquired B.Com and B.Ed qualifications. As seen from G.O.Ms.No.42 dated 10.01.1969, the Secondary Grade Teacher who acquired B.T or B.Ed degree of a University in the State or the degree of other Universities recognized as equivalent to the degree of B.T or B.Ed degree is entitled for two advance increments as incentive increment for having acquired such higher qualifications, namely, B.T or B.Ed. In terms of the said Government Order, the entitlement of the petitioner for award of two advance increments, for having acquired the B.Ed degree on 01.03.2008, cannot be denied. However, the right of the petitioner who claimed advance increment or the incentive increments for having acquired B.Com degree is concerned, there is no Government Order entitling



the petitioner to claim for award of incentive increments on acquiring the B.Com degree. However, the learned counsel for the petitioner contended that in terms of G.O.Ms.No.134 School Education (G2) Department dated 15.06.2007, the graduates in Economics, Commerce are treated eligible for promotion to the post of Middle School Head Master and graduate teachers and therefore, the degree of graduation or post graduation in Economics and Commerce is bound to be treated as higher qualification and thereby, the petitioner is entitled for award of incentive increments for having acquired the B.Com degree.

4.The award of incentive increment itself is a concession 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. 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 petitioner has acquired B.Ed degree after he 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 B.Com degree have erroneously ordered for recovery of incentive increment granted to the petitioner.

5.In such circumstances, the impugned orders are bound to be declared as illegal, insofar as the cancellation of the incentive increment that was awarded in respect of B.Ed degree acquired by the petitioner.

6.Accordingly, the impugned orders are set aside and the 3rd respondent is directed to refix the pay of the petitioner duly continuing the incentive increment that was awarded in favour of the petitioner in respect of 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.

7.Accordingly, the writ petition is allowed. Consequently, connected miscellaneous petitions are closed. No costs.



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Index : Yes/No
Speaking Order : Yes/No
vkr

To:

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VIVEK KUMAR SINGH,J.

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