



WA No.1763 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

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- 1.The Commissioner,
Directorate of School Education,
DPI Campus, College Road,
Chennai 600 006
 - 2.The Chief Educational Officer,
Chengalpattu District
Chengalpattu 603 001
 - 3.The District Educational Officer,
St.Thomas Mount Education District,
Chrompet, Chennai 44
- ... Appellants

versus

- 1.M.P.Ravindranath
 - 2.The Correspondent,
Aringnar Anna Cantonment High School,
Pallavaram, Chennai 600 043
- ... Respondents

1/10



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PRAYER: Writ Appeal filed against the order of the learned Single Judge in WP No.17472 of 2021 dated 06.09.2021.

For the Appellants : Mr.J.C.Durai Raj,
Additional Government Pleader

For the Respondents : Mr.S.Nedunchezhiyan,
for the first respondent

Mr.C.Mohan,
for M/s.King & Partridge,
for the second respondent

JUDGMENT

(Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*)

The Writ Appeal is filed against the order of the learned Single Judge in WP No.17472 of 2021 dated 06.09.2021.

2. Brief facts of the case:

2.1. The first respondent was appointed as Physical Education Teacher in the year 2001 in the second respondent school based on his B.P.Ed Degree qualification. His appointment was duly approved by the



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Government. He continued to work in the same post for about 20 years. Subsequently, since the first respondent had acquired M.P.Ed. Degree higher qualification, he was granted with incentive increment for the same. As per the orders issued in G.O.Ms.No.42, School Education Department, dated 10.01.1969, a teacher is entitled for incentive increment for having acquired higher qualification. Subsequently, the Government issued orders in G.O.Ms.No.1024, Education, Science and Technology Department, dated 09.12.1993, as per which, a teacher is eligible for two sets of incentive increment based on higher qualification in his entire service career.

2.2. Subsequently, the first respondent acquired M.Phil Degree qualification in the year 2006. He studied M.Phil degree through distance education in Annamalai University, after submitting representation to the School Management to grant permission to undergo higher studies. Thereafter, he submitted a representation for sanctioning of incentive increment, which remains to be second set of incentive increment, as per G.O.Ms.1024 dated 09.12.1993. A proposal was forwarded by the



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respondent School to the District Educational Officer/third appellant and the same was returned by stating that the first respondent has studied M.Phil Degree without getting permission from the Department. Thereafter, since no prior permission was obtained from the Department, he was issued with order of Censure vide proceedings of the respondent School dated 01.12.2018. Thereafter, the first respondent made a representation dated 27.02.2021 to the District Educational Officer/third appellant and the third appellant has sent a proposal to the Chief Education Officer/second appellant for sanction of incentive increment to the first respondent. The Chief Educational Officer/second appellant had rejected the proposal vide proceedings dated 30.07.2021, by stating that no prior permission was obtained from the Head of the Department prior to acquiring M.Phil., degree qualification. Challenging the said order, the first respondent filed the instant writ petition. The writ court, by order dated 06.09.2021, allowed the writ petition with the following observations:

"13. The subsequent decision to withdraw the incentive cannot be denied to the disadvantage of the petitioner, based on a reading of first part of paragraph 2 of



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G.O.Ms.No.37 Personnel and Administrative Reform dated 10.03.2020. Therefore, the impugned order passed by the 2nd respondent is liable to be quashed. It is accordingly quashed. The respondents are therefore directed to sanction the incentive increments available to the petitioner within period of four weeks from the date of receipt of copy of this order. This writ petition is allowed with consequential relief to the petitioner."

2.3. Challenging the said order, the appellant Department has preferred the present intra-court appeal.

3. The short point involved in the present writ appeal is whether the first respondent is eligible for second incentive increment for acquiring higher qualification.

4. Learned Additional Government Pleader appearing for the appellant Department submits that the first respondent herein had completed M.Phil. degree. The third appellant sent proposal to the second appellant for sanction of incentive increment for having acquired M.Phil Degree



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qualification. The said proposal was rejected by the second appellant/Chief Educational Officer by relying upon the Government Order in GO Ms. No.37, Personnel and Administrative Reforms dated 10.03.2020. The relevant portion of the Government Order is extracted hereunder:

"i)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.

ii)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 previous orders issued, if any, by the administrative department concerned and not with reference to the 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."

5. Learned Additional Government Pleader further submits that in



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Clause 2 of the aforesaid Government Order, it is clearly 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. The Chief Educational Officer/second appellant, considering the aforesaid GO, rejected the claim of the first respondent. The learned Single Judge, without considering the aforesaid ground raised by the appellant Department has allowed the writ petition based on a reading of first part of paragraph 2 of G.O.Ms.No.37 dated 10.03.2020. Hence, he seeks to set aside the order of the Writ Court.

6. Learned counsel for the first respondent reiterated the stand taken by the writ court and seeks to dismiss the writ appeal.

7. Heard the parties and perused the materials available on record.

8. The Clause 2 of GO Ms. No.37, Personnel and Administrative Reforms dated 10.03.2020 clearly states that if no previous orders were



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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. In the present case, the first respondent herein has acquired M.Phil Degree in the year 2006 but did not obtain prior approval from the Department. In such circumstances, the first respondent had approached the Department seeking to grant advance increment for acquiring higher qualification of M.Phil Degree on 27.02.2021, pursuant to the said Government Order. The Chief Educational Officer/second respondent had rejected the proposal in the light of the aforesaid Government Order.

9. Further, it is brought to the notice of this Court by the learned counsel for the first respondent that the first respondent herein has not challenged the aforesaid Government Order. Since the first respondent has not challenged the aforesaid Government Order, the decision of the Government is binding on the first respondent herein. Therefore, there is force in the contention of the appellant Department. Hence, we are inclined



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to interfere with the order dated 06.09.2021 of the learned Single Judge and it is liable to be set aside and it is accordingly set aside.

10. In fine, the writ appeal stands allowed. There shall be no order as to costs. Consequently, CMP No.12889 of 2022 is closed.

[D.K.K., J.] [K.B., J.]
04.06.2024

Index : Yes/No
Neutral Citation : Yes/No
mrn

To

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and
K.KUMARESH BABU, J.

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