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W.P. No.19221 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.19221 of 2021
and
W.M.P.Nos.20521 & 20522 of 2021

M.Menaka Madhavan

... Petitioner

Vs.

- 1.The Chief Educational Officer,
Salem District,
Salem
- 2.The District Educational Officer,
Salem Education District,
Salem.
- 3.The Block Educational Officer,
Vazhapadi Block,
Vazhapadi,
Salem 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 order passed by the 3rd respondent in Na.Ka.No.253/A1/2021 dated 19.08.2021, and to quash the same.

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For Petitioner : Mr.S.Nedunchezhiyan
For Respondents : Mr.K.H.Ravikumar
Government Advocate

ORDER

The petitioner herein, who was appointed as a Secondary Grade Teacher on 15.07.2009 acquired B.Ed degree qualification in the year 2014. Even prior to her appointment as a Secondary Teacher the petitioner had acquired M.Com degree in the year 2007. However, on acquiring the B.Ed qualification the petitioner made a claim for award of incentive increments in terms of various Government Orders including G.O.Ms.No.42 Education Department dated 10.01.1969, G.O.Ms.No.1024, Education, Science and Technology Department dated 09.12.1993 etc. Considering the claim of the petitioner, the respondents have awarded two advance incentive increments to the petitioner for having acquired M.Com and B.Ed degrees through proceedings issued by the Block Educational Officer dated 02.07.2015 with effect from 22.05.2014. The said incentive increments that have been awarded in favour of the petitioner are withdrawn by issuing the impugned



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proceedings dated 19.08.2021 and the pay of the petitioner has been fixed by duly withdrawing the incentive increments awarded in favour of the petitioner. Aggrieved by the said proceedings dated 19.08.2021 the petitioner approached this Court by filing the present petition.

2.Through the impugned proceedings, the respondents have withdrawn the incentive increments that were awarded for having acquired M.Com and B.Ed qualifications.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 22.05.2014, cannot be denied. However, the right of the petitioner who claimed advance increment or the incentive increments for having acquired M.Com degree is concerned there is no Government order entitling the petitioner to claim for award of incentive increments on acquiring the



M.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 M.Com degree.

3.This Court has carefully perused the said G.O.Ms.No.134 dated 15.06.2007. The said Government Order was issued pursuant an announcement made by the Hon'ble Minister of School Education extending a concession in favour of certain class of employees enabling them to be considered for the promotion to the post of Middle School Head Masters and Graduate Teachers, if they possess the graduate degree in Economics and Commerce. But, there is nothing in the said Government order to treat that graduation in Economics and Commerce as the higher qualification. Merely because the B.Com or M.Com qualifications are treated as eligible



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qualification for the promotion to the post of Middle School Head Master/ Graduate Teachers, the same would not have the effect of conferring any additional right on the Secondary Grade Teacher for award of incentive increment.

4.The award of incentive increment itself is a concessions 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. Admittedly, there is no Government Order providing for award of incentive increments for acquiring the B.Com/M.Com degree. 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 she 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



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for award of incentive increment in respect of M.Com degree have erroneously canceled the advance increments awarded in favour of the petitioner even in respect of B.Ed degree as well and accordingly refixed the pay of the petitioner.

5.In the circumstances, this Court does not find any error in the impugned order, insofar as canceling the incentive increments that were awarded in respect of M.Com degree acquired by the petitioner. However, the impugned order is bound to be declared as illegal, insofar as the same cancels the incentive increment that was awarded in respect of B.Ed degree acquired by the petitioner.

6.Accordingly, the impugned order is partly set aside to the extent of canceling the incentive increment that was awarded in favour of the petitioner through proceedings dated 02.07.2015 in respect of B.Ed degree only. Accordingly, the 3rd respondent is directed to refix the pay of the petitioner duly continuing the incentive increments that were awarded in favour of the petitioner in respect of B.Ed degree and issue proceedings



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afresh as expeditiously as possible within a period of eight weeks from the date of receipt of a copy of this order. The amount if any liable to be recovered from the petitioner consequent on cancelation of the incentive increments awarded in favour of the petitioner for M.Com degree is concerned, the said amounts may be recovered from the petitioner.

7. Consequent upon re-fixation of the pay of the petitioner by continuing the incentive increments in respect of B.Ed degree, if any arrears are due and payable to the petitioner, the same can be adjusted against the amounts recoverable from the petitioner and the balance if any shall be paid to the petitioner.

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

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Index : Yes/No
Speaking Order : Yes/No
vsn

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MUMMINENI SUDHEER KUMAR,J.

Vsn

To:

- 1.The Chief Educational Officer,
Salem District,
Salem
- 2.The District Educational Officer,
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