



W.P.Nos.20013, 20016, 20021, 20026, 20035 and 20038 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.20013, 20016, 20021, 20026, 20035 and 20038 of 2022
and W.M.P.Nos.19301, 19302, 19305, 19307, 19309, 19310, 19314,
19325 and 19327 of 2022

W.P.No.20013 of 2022:-

S.John Bosco Kennedy

... Petitioner

Vs

1. The Commissioner,
Commissionerate of School Education,
DPI Campus, College Road,
Chennai – 600 006.

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

3. The District Educational Officer,
Edappadi Education District (Urban),
Salem District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to call for the records relating to the impugned order issued by the third respondent in Na.Ka. No.1932/ Aa2/ 2019 dated 27.05.2022 and to quash the same in so far as the petitioner is concerned.



WEB COPY



W.P.Nos.20013, 20016, 20021, 20026, 20035 and 20038 of 2022

In all W.Ps

For Petitioners : Mr.J.Jayamalan
For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader

COMMON ORDER

These writ petitions have been filed challenging the order passed by the third respondent dated 27.05.2022, thereby ordered to recover the incentive increments which were granted to the petitioners for their higher education obtained through distance education/Open University/Part time education.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioners were initially appointed as P.G.Assistants in the Tamil Nadu Higher Secondary Education Service through Teacher Recruitment Board. Subsequently, they were promoted to the post of Headmaster of Higher Secondary School based on their seniority and eligibility. While they were working as P.G.Assistants, they had joined M.Phil degree through distance education in the academic year 2006-2007 and completed their degree in the year 2009. Therefore, they were



W.P.Nos.20013, 20016, 20021, 20026, 20035 and 20038 of 2022

granted incentive increments for acquiring M.Phil degree with effect from March 2009, pursuant to G.O.Ms.No.1170 Education Science and Technology Department dated 20.12.1993. Subsequently, the Government passed an order in Government Letter Ms.No.268 Higher Education Department dated 29.08.2006, thereby directed all the Universities under aegis of Higher Education Department that M.Phil/Ph.D., courses should not be offered through Distance Education from the academic year 2007-2008 and they should be offered only in regular stream. Whereas, all the petitioners had joined M.Phil course in the year 2006-2007 and completed their course in the year 2008-2009 through distance education. They were provided with M.Phil degree and accordingly they were granted incentive increment.

4. Now, the third respondent by citing the Government Letter Ms.No.268 Higher Education Department dated 29.08.2006 and G.O.Ms.No.91, Higher Education (K2), dated 03.04.2009, ordered to recover the incentive increment which were granted to the petitioners who had completed their M.Phil degree through distance education from various Universities.



W.P.Nos.20013, 20016, 20021, 20026, 20035 and 20038 of 2022

WEB COPY

5. A perusal of G.O.Ms.No.1170, Education Science and Technology Department dated 20.12.1993 revealed that the Post Graduate Teachers who possess higher qualification like M.Phil/P.hd/P.G. Diploma in teaching of English shall be granted one incentive increment (i.e) two advance increments.

6. A perusal of Government Letter Ms.No.268, Higher Education Department dated 29.08.2006 revealed that the Universities are directed not to offer M.Phil/Ph.D courses through distance education from the year 2007-2008 and they should be offered only in the regular stream.

7. G.O.Ms.No.91, Higher Education (K2), dated 03.04.2009 ordered that M.Phil/Ph.D degrees obtained through the correspondence/Distance Education/Open University System are ineligible for Government appointments and appointment as Lectures in College/Universities including self financing colleges.

8. A perusal of the counter filed by the third respondent and the



W.P.Nos.20013, 20016, 20021, 20026, 20035 and 20038 of 2022

submissions made by the learned Special Government Pleader appearing for the respondents revealed that the third respondent cited Government Letter Ms.No.268 Higher Education Department dated 29.08.2006 and G.O.Ms.No.91, Higher Education (K2), dated 03.04.2009. Therefore, the petitioners are not eligible for sanction of incentive increment. She further submitted that admittedly, the petitioners had obtained M.Phil degree through distance education from various Universities.

9. This Court, in a batch of writ petitions in W.P.Nos.42675 of 2016 etc., by an order dated 06.09.2018 held that the petitioners are not entitled for grant of any incentive increments for the qualification of M.Phil degree obtained by them from the Vinayaka Missions University, which was not approved. Aggrieved by the same, writ appeals were filed in a batch of writ appeals in W.A.Nos.2328 of 2018 etc.,. The Hon'ble Division Bench of this Court, by the Judgment dated 04.08.2023 held that G.O.Ms.No.91, Higher Education (K2), dated 03.04.2009 ordered about the eligibility for a person to get employment. It does not deal with advance incentive increment to the Teachers who acquired higher education. Therefore, the order passed by the learned Single Judge of this



W.P.Nos.20013, 20016, 20021, 20026, 20035 and 20038 of 2022

Court was set aside and the order of recovery was quashed.

WEB COPY

10. Admittedly, the petitioners had joined their M.Phil degree through distance education in the academic year 2006-2007 and they had completed their degree in the academic year 2008-2009 from various Universities. Whereas, the Government Letter Ms.No.268, Higher Education Department dated 29.08.2006 is very clear that the Universities are directed not to offer M.Phil/Ph.D courses through distance education from the academic year 2007-2008 and those courses should be offered only through the regular stream.

11. As per G.O.Ms.No.91, Higher Education (K2), dated 03.04.2009 ordered that M.Phil/Ph.D degrees obtained through the correspondence/Distance Education/Open University System are ineligible for Government appointments and appointment as Lectures in College/Universities including self financing colleges.

12. Whereas, in the case on hand, the petitioners were appointed as P.G.Assistants and subsequently they were promoted to the post of



W.P.Nos.20013, 20016, 20021, 20026, 20035 and 20038 of 2022

Headmaster of Higher Secondary School. Therefore, the Government letter and the Government Order are not applicable to the case of the petitioners. The third respondent, only by referring those orders, ordered for recovery of the advance increments which were granted with effect from the date of completion of M.Phil degree of the respective petitioners.

13. In view of the above, impugned order cannot be sustained and is liable to be quashed. Accordingly, the impugned order passed by the third respondent in Na.Ka. No.1932/ Aa2/ 2019 dated 27.05.2022, is hereby quashed.



W.P.Nos.20013, 20016, 20021, 20026, 20035 and 20038 of 2022

WEB COPY

14. Accordingly, these writ petitions stand allowed. Consequently, connected Miscellaneous petitions are closed. No costs.

11.07.2024

Internet: Yes

Index : Yes/No

Neutral Citation : Yes/No

Speaking/Non Speaking order

mn



W.P.Nos.20013, 20016, 20021, 20026, 20035 and 20038 of 2022

WEB COPY

To

1. The Commissioner,
Commissionerate of School Education,
DPI Campus, College Road,
Chennai – 600 006.
2. The Chief Educational Officer,
Salem District,
Salem.
3. The District Educational Officer,
Edappadi Education District (Urban),
Salem District.



WEB COPY



W.P.Nos.20013, 20016, 20021, 20026, 20035 and 20038 of 2022

G.K.ILANTHIRAIYAN. J.

mn

W.P.Nos.20013, 20016, 20021, 20026, 20035 and 20038 of 2022

11.07.2024