



W.P. No.11540 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.11540 of 2017
and
W.M.P.Nos.12531 of 2017 & 1348 of 2018

N.Murugan

... Petitioner

Vs.

1.The Director of Elementary Education
DPI Campus,
College Road,
Chennai – 600 006

2.The District Elementary Education Officer
Collectorate Campus,
Salem District,
Salem.

3.The Assistant Elementary Education Officer,
Attur, Salem District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the 3rd respondent dated 28.02.2017 in Na.Ka.No.1387/A1/2016 and to quash the same, consequently direct the respondents to pay all monetary benefits.



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For Petitioner : Mr.C.Prabakaran
For Respondents : Mr.K.H.Ravi Kumar
Government Advocate.

ORDER

The petitioner herein was appointed as secondary grade Teacher by the 3rd respondent on 01.11.2004 and thereafter, while the petitioner was in service, he acquired additional qualifications of B.Com, M.Com and B.Ed during the years 2001 and 2012. Thereafter, the petitioner made a claim for award of incentive in terms of G.O.Ms.No.42 dated 10.01.1969. Accordingly, the petitioner was awarded incentive increment for acquiring M.Com and B.Ed qualification through proceedings Na.Ka.No.1019/A2/2013 dated 23.05.2013 with effect from December 2012. Thereafter, the respondents issued the impugned proceedings bearing Na.Ka.No.1387/A1/2016 dated 28.02.2017 withdrawing incentive increment awarded in favour of the petitioner and also ordering for recovery of the amounts paid by virtue of the proceedings dated 23.05.2013. Aggrieved by the same the petitioner approached this Court by filing this present writ petition.



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2. This Court while entertaining the said petition granted interim stay of further proceedings pursuant to the impugned order. It is agreed by the learned counsel on either side that the award of additional incentive for acquiring M.Com qualification is concerned, the issue has become final by virtue of various orders passed by the learned Single Judge of this Court in particular W.P.MD.No.8637 of 2016 and W.P.No.14446 of 2017 dated 19.05.2022 and 07.11.2022 respectively.

3. However, it is argued that insofar as the additional qualification of B.Ed acquired by the petitioner on 28.12.2012 is concerned, the petitioner is entitled for incentive increment for the said qualification as the same is very much permissible under G.O.Ms.No.42 dated 10.01.1969. In view of the un-disputed fact that the petitioner acquired B.Ed much prior to the issuance of proceedings dated 23.05.2013, awarding incentive increment in favour of the petitioner, can't be said to be incorrect.



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4. From the perusal of the proceedings dated 23.05.2013, it is evident that it is only one incentive increment which was awarded for acquiring M.Com and B.Ed qualifications. Now, it is only in respect of M.Com qualification, the petitioner is found to be not entitled for incentive increment but not in respect of the B.Ed qualification acquired by him.

5. In view of the same, the impugned order withdrawing incentive increment that was granted in favour of the petitioner through proceedings dated 23.05.2013, without taking note of the fact that the petitioner is entitled for such incentive increment for acquiring B.Ed qualification suffers from non application of mind.

6. Thus, it is evident that even the petitioner is found not entitled for grant of incentive in respect of M.Com qualification, the right of the petitioner for award of incentive increment for B.Ed cannot be denied. In view of the same, the impugned order withdrawing incentive increment awarded in favour of the petitioner and ordering for recovery without taking note of the fact that the petitioner also acquired B.Ed qualification which is



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covered under G.O.Ms.No.42 dated 10.01.1969 is liable to be declared as illegal and accordingly, the impugned order is set aside.

7. Accordingly, this writ petition is allowed. The connected miscellaneous applications, if any, shall stand closed. No costs.

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Index : Yes/No
Speaking Order : Yes/No
dpa

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MUMMINENI SUDHEER KUMAR,J.

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