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W.P.No.33173 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2024

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THE HON'BLE MR. JUSTICE **BATTU DEVANAND**

W.P.No.33173 of 2017
and
W.M.P.No.36581 of 2017

K.Elumalai

... Petitioner

Vs.

1. District Elementary Educational Officer,
Thiruvannamalai,
Thiruvannamalai District.

2. Assistant Elementary Educational Officer,
Arni, Thiruvannamalai District.

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 2nd respondent in his Proceedings Na.Ka.No.829/A1/2017 dated 13.12.2017 and quash the same and direct the respondents to confer all consequential benefits to the petitioner.

For Petitioner : Mr.P.Ganesan

For Respondents : Mr.R.Neelakandan, AAG
assisted by Mr.V.Manoharan, AGP (Edu)



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ORDER

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The case of the petitioner is that he was appointed as Secondary Grade Teacher on 17.12.1990 and thereafter promoted as Headmaster of Elementary School on 02.01.2006 and as B.T.Assistant (Tamil) on 01.06.2008 and subsequently promoted as Headmaster of Middle School on 02.06.2009. The petitioner acquired B.A., in 1994 and B.Ed in 1995, he was sanctioned one incentive increment on 09.01.1996 and acquired MA during 2000 and sanctioned another increment on 27.05.2000 for acquiring higher qualification. In the meanwhile, the petitioner came to know that his Junior by name M.Amudha got more scale of pay and requested to step up the pay on par with his Junior, the 1st respondent by his order dated 13.09.2013 stepped up the scale of pay with effect from 01.07.2010. Whiles, the 2nd respondent issued notice dated 05.12.2017 which was served on the petitioner on 11.12.2017 enclosing the audit objection. The said audit objection states that the incentive increment for B.Ed qualification is not available for Headmaster/Headmistress of Middle School are not entitled for incentive increment for acquiring B.Ed qualification. Thereafter, the petitioner submitted his objection on



13.12.2017, the 2nd respondent without considering the representation served the impugned order of recovery dated 13.12.2017, directing the petitioner to deposit the entire amount in one lump sum.

2. In the present case, on relying several Government Orders issued by the first respondent, wherein it is decided to provide incentive payment to the Teachers in Schools, who acquired higher educational qualifications, the petitioner contends that he is entitled for incentive after completion of B.Ed. With the said request, the petitioner made a representation to the respondents on 13.12.2017. The 2nd respondent by an impugned order dated 13.12.2017, refused the request of the petitioner to allow incentive for completion of B.Ed., degree. Hence, the present writ petition.

3. Learned counsel for the petitioner contends that the impugned order passed by the 2nd respondent is illegal, mala fide and utter violation to the principles of natural justice. As the petitioner acquired additional qualification, he is eligible for the incentive increments, as per the Government Orders issued time to time.



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4. The learned Additional Advocate General appearing for the respondents contends that as the basic qualification for promotion as Head Master of the Middle School is a degree of any University in the State or a degree of equivalent standard and B.T., or B.Ed., degree of any University in the State, the petitioner already promoted as Middle School Headmaster, he is not entitled for any further incentive for acquiring B.Ed., degree.

5. The learned Additional Advocate General placed reliance on the common judgment dated **20.12.2023** in **W.A.(MD).No.2124 of 2023** and batch of the Madurai Bench of this Court and **WP.(MD).No.1237 of 2016** dated **21.03.2022**.

6. The relevant paragraph at Paragraph 14 of the order dated **21.03.2022** cited supra is extracted hereinunder :-

14. On perusal of these Government Orders, it has been specifically stated that acquiring B.Ed., will not be considered as higher qualification and they are not entitled to. The concept behind this is that the Tamil Nadu Government in order to promote Tamil has taken the policy decision to grant promotion for Tamil Pandits with B.Lit. qualification as Primary School Headmaster or Middle School Headmaster and treat them on par with the B.T. And B.Ed., degree. Therefore, the Government has taken the policy decision that B.Lit., and B.Ed., are on par, that is why in the subsequent clarification there



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was a deliberate omission of granting advance increments for B.Ed., degree. The petitioner has referred to some judgments, but in all these judgments, the subsequent clarification issued by the Government was not referred at all. With great respect to these judgments, this Court is of the considered opinion that since the judgments have not referred the subsequent clarification Government Orders and the amendment of rule, this Court is of the considered opinion that the petitioner is not entitled to incentive increments based on the Government Orders stated supra and the discussions as stated supra. Therefore, there is no infirmity on merits.

7. Having considered the submissions of the respective counsels and upon careful perusal of the materials available on record and the reliances placed by the learned Additional Advocate General, this Court is left with no other option except to follow the ratio laid down in the said orders of this Court as stated supra. In the above mentioned orders, this Court has considered all relevant Government Orders and the case laws relied on by the respective counsels and held that as the B.Ed., degree is the basic qualification for promotion as Head Master of the Middle School, granting incentive for acquiring B.Ed., degree does not arise. This Court is of the opinion that the orders stated supra have to be followed by this Court in the present case also.



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8. Accordingly, for the reasons stated above, this Writ Petition is dismissed.

9. There shall be no order as to costs.

10. Consequently, connected miscellaneous petition is closed.

21.02.2024

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

1. District Elementary Educational Officer,
Thiruvannamalai,
Thiruvannamalai District.

2. Assistant Elementary Educational Officer,
Arni, Thiruvannamalai District.



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BATTU DEVANAND.J.,
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