



W.P.(MD).Nos.277 to 279, 796 & 797 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).Nos.277 to 279, 796 & 797 of 2024

and

W.M.P(MD)Nos.273, 274, 280, 790 & 797 of 2024

W.P(MD)No.277 of 2024:

N.Nagasundaram

... Petitioner

Vs.

1.The Chief Educational Officer,
Trichy.

2.The District Educational Officer,
Trichy.

3.The Secretary,
E.R.Higher Secondary School,
Trichy.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 2nd respondent in his proceedings in Mu.Mu.No.697/A2/2020, dated 15.02.2021 and quash the same and direct the respondents to release the monetary benefits as per the sanction order passed by the 2nd respondent in his proceedings in Na.Ka.No.4359/A2/2020, dated 25.09.2020.



W.P.(MD).Nos.277 to 279, 796 & 797 of 2024

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W.P(MD)No.278 of 2024:

J.Vijayakumar

... Petitioner

Vs.

1.The Chief Educational Officer,
Trichy.

2.The District Educational Officer,
Trichy.

3.The Secretary,
E.R.Higher Secondary School,
Trichy.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 2nd respondent in his proceedings in Mu.Mu.No.0696/A2/2021, dated 24.03.2021 and quash the same and direct the respondents to release the monetary benefits as per the sanction order passed by the 2nd respondent in his proceedings in Na.Ka.No.4360/A2/2020, dated 25.09.2020.

W.P(MD)No.279 of 2024:

N.Chandra Sekaran

... Petitioner

Vs.

1.The Chief Educational Officer,
Trichy.

2.The District Educational Officer,
Trichy.



W.P.(MD).Nos.277 to 279, 796 & 797 of 2024

3.The Secretary,
E.R.Higher Secondary School,
Trichy.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 2nd respondent in his proceedings in Mu.Mu.No.0698/A2/2021, dated 124.03.2021 and quash the same and direct the respondents to release the monetary benefits as per the sanction order passed by the 2nd respondent in his proceedings in Na.Ka.No.4362/A2/2020, dated 25.09.2020.

(In W.P(MD)Nos.277 to 279/2024)

For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mr.M.Sarangan
Additional Government Pleader

W.P(MD)No.796 of 2024:

I.Bagavathi

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
Secretariat, Chennai.
- 2.The Director of School Education,
O/o the Director of School Education,
College Road, Chennai-6.
- 3.The Chief Educational Officer,
O/o the Chief Educational Officer,
Tirunelveli, Tirunelveli District.



W.P.(MD).Nos.277 to 279, 796 & 797 of 2024

4.The Headmaster,
Government High School,
Rashtha, Tirunelveli District.

5.The Registrar,
Vinayaga Missions University,
Ariyanoor, Salem-636 308.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to repay the incentive increment paid to the petitioner and consequently to direct the 3rd respondent to continue to pay the incentive increment to the petitioner for having acquired the M.Phil degree in Vinayaga Missions University by considering the petitioner's representation, dated 20.12.2023 within a time stipulated by this Court.

W.P(MD)No.797 of 2024:

M.Susithra

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
Secretariat, Chennai.

2.The Director of School Education,
O/o the Director of School Education,
College Road, Chennai-6.

3.The Chief Educational Officer,
O/o the Chief Educational Officer,
Tirunelveli, Tirunelveli District.



W.P.(MD).Nos.277 to 279, 796 & 797 of 2024

4.The Headmaster,
Government Girls Higher Secondary School,
Pathamadaai, Tirunelveli District.

5.The Registrar,
Vinayaga Missions University,
Ariyanoor, Salem-636 308.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to repay the incentive increment paid to the petitioner and consequently to direct the 3rd respondent to continue to pay the incentive increment to the petitioner for having acquired the M.Phil degree in Vinayaga Missions University by considering the petitioner's representation, dated 22.12.2023 within a time stipulated by this Court.

(In W.P(MD)Nos.796 & 797/2024):

For Petitioner : Mr.H.Mohammed Imran

For R1 to R3 : Mr.P.T.Thiraviyam
Government Advocate

For R4 : No Appearance

For R5 : Mr.T.Antony Arul Raj

COMMON ORDER

The present writ petitions have been filed by the PG assistants challenging the order passed by the respective District Educational Officers,



W.P.(MD).Nos.277 to 279, 796 & 797 of 2024

wherein the petitioners' incentive increment has been sought to be cancelled on the ground that the petitioners have undergone M.phil., course in an unapproved institution.

2. W.P(MD).277 of 2024 - Gist of the case:

(a) The petitioner was appointed as BT assistant (Social Science) on 30-03-2007. He had already passed M.A., even before appointment, as per the scheme he was sanctioned one set of incentive increment for the higher qualification of M.A., from the date of appointment. While so, he joined M.Phil., in Vinayaka Mission University, Salem and passed the same in 2007. Based upon the said higher qualification, incentive increment was conferred upon the writ petitioner from 18.01.2013.

(b) Under the impugned order, the incentive increment that was granted to the writ petitioner from 18.01.2013 was sought to be recovered on the ground that M.phil., degree granted by Vinayaka Mission University through distance education has not been approved by the Government and therefore, on the said degree, the incentive increment ought not to have been granted to the writ petitioner from 18.01.2013.



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3. W.P(MD)No.278 of 2024 - Gist of the case:

(a) The petitioner was appointed as B.T Assistant (Science) on 30-03-2007. Since he already passed M.A., even before appointment, as per the scheme he was sanctioned one set of incentive increment for higher qualification of M.A., from the date of appointment. Thereafter, he studied M.Phil., in Vinayaka Mission University, Salem and passed the same in December 2007. For the said higher qualification, he was sanctioned with incentive increment from 18.01.2013.

(b) Under the impugned order, dated nil.03.2021, signed on 24-03-2021, passed by the second respondent, the incentive increment that was granted to the writ petitioner from 18.01.2013 was sought to be recovered on the ground that M.Phil., degree granted by Vinayaka Mission University through distance education has not been approved by the Government and therefore, on the said degree, the incentive increment ought not to have been granted to the writ petitioner from 18.01.2013.

4. W.P(MD)No.279 of 2024 - Gist of the case:

(a) The petitioner was appointed as B.T Assistant (Social Science) on 30-03-2007. Since he already passed M.A., even before appointment, as per the



scheme he was sanctioned one set of incentive increment for higher qualification of M.A., from the date of appointment. Thereafter, he studied M.Phil., in Vinayaka Mission University, Salem and passed the same in December 2007. For the said higher qualification, he was sanctioned with incentive increment from 18.01.2013.

(b) Under the impugned order, dated nil.03.2021, signed on 24-03-2021, passed by the second respondent, the incentive increment that was granted to the writ petitioner from 18.01.2013 was sought to be recovered on the ground that M.Phil., degree granted by Vinayaka Mission University through distance education has not been approved by the Government and therefore, on the said degree, the incentive increment ought not to have been granted to the writ petitioner from 18.01.2013.

5. W.P(MD)No.797 of 2024 gist of the case.

(a) The petitioner was appointed as P.G Assistant in Government Higher Secondary School, Podhukudi, Tirunelveli on 03-09-2014. The petitioner was in possession of M.Phil., degree for English awarded by the Vinayaka Mission University, which he obtained during the academic year 2009. Accordingly, he was granted with incentive increment for the possession of M.Phil., (English) degree on 03-09-2014. While the petitioner was working at Government Girls



Higher Secondary School, Ambasamudram, Tirunelveli, the fourth respondent by proceedings dated 19-08-2019, directed the petitioner to pay an amount of Rs 1,32,764/- on the ground that the M.Phil., degree awarded by the Vinayaka Mission University is not recognized by the State Government.

(b) Without putting the petitioner on prior notice, the said order came to be passed and without giving opportunity, subsequently the amount was also recovered from the petitioner. The Petitioner made a representation dated 22-12-2023 to the third respondent seeking to repay the incentive increment paid to the petitioner and consequently direct the third respondent to continue to pay incentive increment to the petitioners for having acquired the M.Phil., degree in Vinayaka Mission University. However, the said representation was not considered. Hence this petition came to be filed.

6. WPMD No. 796 of 2024, gist of the case:

(a) The Petitioner was appointed as B.T Assistant (Maths) and was posted at Panchayat Union Middle School, Avarangadu, Manamudurai, Sivagangai District on 14-03-2007. She was further transferred to Government High School, Rastha, Tirunelveli. She was in possession of M.Phil., (Maths) awarded by the Vinayaka Mission University during the academic year 2009.



As such, she was granted incentive increment for the possession of M.Phil., (Maths) degree on 18-01-2013.

(b) While she was working at Government High School, Palamadai, Tirunelveli, the Headmaster vide proceeding stated 29-11-2021, directed her to pay an amount to a tune of Rs. 3,54,740/- on the ground that the M.Phil., degree awarded by the Vinayaka Mission University is not recognized by the State Government. Without giving an opportunity of being heard and any prior notice, such an order came to be passed and subsequently the amount was also recovered.

7. In view of the same, the petitioner made a representation dated 20-12-2023, seeking to repay the incentive increment paid to the petitioner and consequently, to direct the third respondent to continue to pay the incentive increment to the petitioner for having acquired M.Phil., degree in Vinayaka Mission University. Since the same was not considered, this petition came to be filed.

8. WP(MD)Nos.277 and 278 of 2024 have been filed challenging the impugned order passed by the respective District Educational Officer cancelling the incentive increment on the ground that the petitioners have



W.P.(MD).Nos.277 to 279, 796 & 797 of 2024

undergone M.Phil., course in an unapproved institution. As far as W.P(MD)No.796 & 797 of 2024, the petitioners have filed a writ of Mandamus seeking to direct the respondent to repay the incentive increment recovered from the petitioners and consequently, direct the third respondent to continue to pay the incentive increment to the petitioners for having acquired M.Phil., degree from Vinayaka Mission University considering their representations.

9. The matter in hand is no more *Res Integra* and the Honorable Division Bench of this Court in a batch of writ appeals in ***W.A.No.2328 of 2019 etc.***, dated 04-08-2023 (***S.Sivan Vs. The Regional Accounts Officer, (Audit) Department of School Education, Coimbatore & others***) has dealt with a similar case, wherein, in Para No.24 of the said judgment, the Honorable Division Bench of this Court is pleased to point out that, between 2007 to 2012, Vinayaka Mission University was given institution wise recognition by the UGC and therefore, the teachers who had joined the course either in the year 2007 or in the year 2008 and completed either in the year 2008 or in the year 2009 have been granted a valid degree.



W.P.(MD).Nos.277 to 279, 796 & 797 of 2024

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10. The said judgment is squarely applicable to the facts and circumstances of the present case. In view of the fact that all the petitioners have passed out in the year 2007, the orders impugned in proceedings bearing Mu.Mu.No.697/A2/2020 dated 15.02.2021, Mu.Mu.No.0696/A2/2021 dated: 24.03.2021 and Mu.Mu.No.0698/A2/2021 dated 24.03.2021 in the writ petitions in W.P(MD)Nos.277, 278 & 279 of 2024 are set aside. Consequently, all the writ petitions stand allowed. The respondents are directed to continue to pay the incentive increment to the petitioners. If any amount had been recovered from the petitioners, the same shall be refunded to the writ petitioners within a period of twelve (12) weeks from the date of receipt of copy of this order.

11. With the above said observations, these Writ Petitions stand allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

15.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes

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W.P.(MD).Nos.277 to 279, 796 & 797 of 2024

To
WEB COPY

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Trichy.
- 2.The District Educational Officer,
Trichy.
- 3.The Secretary,
E.R.Higher Secondary School,
Trichy.
- 4.The Secretary to Government,
School Education Department,
Secretariat, Chennai.
- 5.The Director of School Education,
O/o the Director of School Education,
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- 6.The Chief Educational Officer,
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W.P.(MD).Nos.277 to 279, 796 & 797 of 2024

L.VICTORIA GOWRI, J.

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W.P.(MD).Nos.277 to 279, 796 & 797 of 2024

15.03.2024