



W.P.(MD).No.683 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.683 of 2024

M.Fatima Vijaya Latha

... Petitioner

Vs

1. The Director of Elementary School Education,
College Road, DPI Campus, Chennai - 6.
2. The District Elementary School Education,
Tirunelveli, Tirunelveli District.
3. The Block Education Officer,
Block Education Office, Palayamkottai Town,
Tirunelveli District.
4. The Correspondent,
CMS US Borne Middle School,
Palayamkottai Town, Tirunelveli District.

... 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 1 to 3 to award the incentive increments to the petitioner for M.A.Tamil with effect from 18.05.2019 with all monetary benefits on the basis of her representation, dated 02.11.2020 within the time stipulated by this Court.



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For Petitioner : Mr. C.Jeganathan

For Respondents : Mr.M.Sarangan
Additional Government Pleader

ORDER

The present writ petition has been filed for the issue of a writ of mandamus directing the respondents 1 to 3 to award an incentive increment to the petitioner for acquiring M.A.Tamil with effect from 18.05.2019 with all monetary benefits on the basis of her representation, dated 02.11.2020 within the time stipulated by this Court.

2.By consent of both parties and considering the limited relief sought for by the petitioner, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.Heard, the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondents. Perused the materials on record.

4.The petitioner was appointed as a Secondary Grade Teacher under TDTA Management on 04.09.2001 and presently, she is working under



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the fourth respondent's School. After being appointed to the said post, the petitioner after getting prior permission from the authorities, has completed B.Lit., and then B.Ed., Course during the year 2011-14. After the completion of B.Ed., Degree, she got an incentive increment for higher education. On prior permission, during the year 2017-19, she has studied M.A., Tamil in Mother Therasa University at Kodaikanal and completed the course on 18.05.2019. On completion of the said course, she made an application to the third respondent for getting incentive increment on 02.11.2020. The same was forwarded by the Correspondent to the third respondent and the third respondent also forwarded the same to the second respondent. However, the second respondent had kept the same without passing any orders. Hence, this writ petition came to be filed.

5.The learned counsel for the petitioner submitted that the petitioner had acquired higher qualification of M.A., Tamil as early as on 18.05.2019, ie., well before 10.03.2020, the date of G.O.Ms.No.37, in which, the increment was denied for higher qualification. Hence, prayed to allow the petition.



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6.The learned Additional Government Pleader appearing for the respondents submitted that in terms of G.O.Ms.No.37, dated 10.03.2020, the petitioner is not entitled for incentive increment for acquiring higher education. That apart, relying upon G.O.Ms.No.116, dated 01.05.2010, if the Government servant who had acquired higher qualification prior to date of passing of G.O.Ms.No.37, ie., prior to 10.03.2020 has been sanctioned with incentive increment, the same has to be examined as per rule 6(iv) of G.O.Ms.No.37 and appropriate orders would be issued before 31.03.2021. He further submitted that there are 5000 cases similar to that of petitioner's case which are pending before the Government and all the cases would be examined as per rule 6(vi) of G.O.Ms.No.37 and the same would cause huge financial implication on the State. Hence, appropriate orders could be passed only with the concurrence of Finance Department. As and when the same is received by the Government only then final orders will be passed on the application of the petitioner.

7.However, this Court similarly dealt with the issue in W.P(MD)No.8907 of 2021, dated 03.11.2023 and held that G.O.Ms.No.37 cannot operate retrospectively, the petitioner who had completed higher education before 10.03.2020 are entitled for incentive increment.



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8.In view of the same, this Court hereby directs the first respondent to consider the petitioner's representation, in light of order passed in W.P(MD) No.8907 of 2021, dated 03.11.2023 within a period of twelve (12) weeks, from the date of receipt of copy of this order.

9.With the above direction, this writ petition stands disposed of.
There shall be no order as to costs.

29.01.2024

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

To

1. The Director of Elementary School Education,
College Road, DPI Campus, Chennai - 6.
2. The District Elementary School Education,
Tirunelveli, Tirunelveli District.
3. The Block Education Officer,
Block Education Office, Palayamkottai Town,
Tirunelveli District.



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L.VICTORIA GOWRI, J.

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ORDER IN
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