



WP.(MD).No.2095 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 02.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.2095 of 2022
and
W.M.P.(MD)No.1797 of 2022

R.Balavadivel

... Petitioner

Vs.

- 1.The Joint Director of School Education,
D.P.I. Complex,
College Road,
Nungambakkam,
Chennai.
- 2.The Chief Educational Officer,
Office of the Chief Educational Officer,
Dindigul District.
- 3.The District Educational Officer,
Office of the District Educational Officer,
Batlagundu, Dindigul District.
- 4.The Secretary,
N.S.V.V. Boys Higher Secondary School,
Pattiveeranpatti,
Dindigul District.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the third respondent vide his proceedings in Na.Ka.No.1635/A3/2021 dated 22.07.2021 and quash the same as illegal and consequently directing the respondent nos.1 to 3 herein to grant incentive increment to the petitioner for acquiring higher qualification of M.Com., (Commerce) with effect from December 2009.

For Petitioner : Mr.J.Lawrence
For Respondents 1 to 3 : Mr.P.T.Thiraviyam
Government Advocate
For 4th Respondent : Mr.Dilip Kumar

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorari to quash the impugned order passed by the third respondent vide his proceedings in Na.Ka.No.1635/A3/2021 dated 22.07.2021 and consequently directing the respondent nos.1 to 3 herein to grant incentive increment to the petitioner for acquiring higher qualification of M.Com., (Commerce) with effect from December 2009.

2.The petitioner is serving as a PG Assistant (Commerce) with effect from 11.06.2014 in the fourth respondent School. The



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petitioner completed M.Com degree during the year 2009 after obtaining permission from the fourth respondent. The petitioner made a request to the fourth respondent to sanction incentive increment for possessing higher qualification of M.Com. The proposal was forwarded by the fourth respondent to the third respondent. In view of the same, the impugned order of rejection of proposal of grant of incentive increment for acquiring higher qualification dated 22.07.2021 came to be passed. Challenging the same, this Writ Petition came to be filed.

3.The learned counsel Mr.J.Lawrence, for the petitioner vehemently contended that the question of grant of incentive increment for those Teachers who have acquired higher qualification with due permission from the School in which, the employee is working is no more *res integra* and the petitioner only after obtaining proper permission acquired higher qualification and hence, he is entitled for incentive increment and pressed for allowing the Writ Petition.

4.Per Contra the learned Government Advocate Mr.P.T.Thiraviyam, has filed a counter on behalf of the third



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respondent and vehemently submitted that the petitioner has not obtained any permission from the authorities concerned as per G.O.Ms.No.101 dated 18.05.2018. Hence, there is no infirmity in the impugned order of rejection and pressed for dismissal of the Writ Petition.

5.Heard Mr.J.Lawrence learned counsel appearing for the petitioner, Mr.P.T.Thiraviyam, learned Government Advocate appearing for the respondents 1 to 3, Mr.N.Dilipkumar, learned counsel for the fourth respondent and perused the entire materials available on record.

6.This Court is of the considered view that the question on issue of grant of incentive increment for the Teachers who have acquired higher education qualification is no more *res integra*. The Hon'ble Division Bench of this Court has dealt with a similar case in the case of ***The Joint Director of School Education, (Higher Secondary) and others v. S.Vasugi and another, in W.A. (MD)No.1124 of 2023*** dated 24.07.2023 and the relevant portion of which is extracted as follows:-

“2. The first respondent / writ petitioner is a Teacher and she filed the above writ petition challenging the order



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by which the claim for incentive increment for acquiring higher qualification was rejected by the Joint Director of School Education and subsequently by the Chief Educational Officer. The application for incentive increment was rejected by the Joint Director of School Education and subsequently by the District Educational Officer by order, dated 12.11.2019 and 20.12.2019 respectively. The application for incentive increment was rejected only on the ground that the first respondent had not obtained prior permission of the authorities for undergoing higher education. Therefore, the learned Single Judge of this Court, allowed the writ petition, following the view taken by this Court by another Judge of this Court in J.Tamilrajan Vs. Department of School Education and Others passed in W.P(MD)No.4019 of 2018. It is now admitted before this Court the same view of this Court was affirmed in W.A(MD)No.813 of 2021 in the case of The Director of School Education, DPI Campus, College Road, Chennai~6 Vs. G.Anandhi, dated 16.04.2021.

3. This Court find that the issue is no more res integra in view of the several judgments on this issue holding that the claim of teachers for incentive increment cannot be rejected on the ground that the concerned teacher had not obtained prior permission of the authorities for undergoing higher education. Since the issue has been settled by precedents, this Court is unable to countenance the arguments advanced by the learned Counsel for the appellants. It is true that there are several



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Government Order which have insisted the requirement of permission of the educational authorities for a teacher to undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher qualification is to encourage the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service will have to obtain prior permission as per the Government Orders. Further it is to be noted the acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity and that will not entitle the respondents to reject the benefit to the teachers.”

7.In yet another case of the Hon'ble Division Bench in **W.A. (MD)No.23 of 2022** in the case of ***the Joint Director of School Education and others v. K.Balavadivel and another*** has passed favourable orders and the relevant portion is extracted as follows:-

“11. This Court is of the view that the issue on hand is no more res integra, as this Court, by Judgment dated 24.07.2023 in W.A.(MD) No.1124 of 2023 (The Joint Director of School Education and others vs. S.Vasugi and another), by following the earlier decision of this Court in the case of the Director of School Education, D.P.I. Campus, College Road, Chennai~6 vs. G.Anandhi, in W.A.



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(MD) No.813 of 2021, dated 16.04.2021, has held that even though permission is required for undergoing higher studies, absence of getting prior permission will not disentitle the teachers to claim incentive increment for possessing such higher educational qualifications. In the said Judgment, this Court has also observed that payment of incentive increment for acquiring higher educational qualifications is to encourage the teachers to acquire higher educational qualification, so that the quality of education will be improved more. In the said circumstances, this Court finds that the writ petitioner is entitled to succeed."

8.Fully fortified with the orders passed by the Hon'ble Division Bench of this Court in those cases as discussed supra, observing that the petitioner herein acquired higher educational qualification of M.Com degree during the year 2009, after duly obtaining the prior permission from the fourth respondent school. Absence of getting prior permission of the educational authorities will not disentitle to petitioner's right to grant of incentive increment for acquiring higher qualification. In view of the same, the impugned order of rejection of the third respondent dated 22.07.2021 is hereby quashed and consequently, the respondents 1 to 3 are directed to grant incentive increment to the petitioner for



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acquiring higher qualification of M.Com with effect from December 2009 within a period of twelve weeks from the date of receipt of copy of this order.

9. Accordingly, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

02.02.2024

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



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To

- 1.The Joint Director of School Education,
D.P.I. Complex,
College Road,
Nungambakkam,
Chennai.
- 2.The Chief Educational Officer,
Office of the Chief Educational Officer,
Dindigul District.
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L.VICTORIA GOWRI, J.

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