



W.A(MD)No.162 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.02.2024

CORAM:

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE P.DHANABAL**

**W.A(MD)No.162 of 2024
and
CMP(MD)No.1378 of 2024**

1. The District Elementary Educational Officer,
Ramanathapuram.

2. The Additional Assistant Elementary Educational Officer,
Muthukulathur,
Ramanathapuram District.

... Appellants

-vs-

M.Kaliammal

... Respondent

PRAYER: Appeal filed under Clause 15 of Letters patent, against the order dated 18.08.2021 made in W.P(MD)No.1700 of 2016 on the file of this Court.

For Appellants : Mr.D.Sadiq Raja
Additional Government Pleader
For Respondent : Mr.T.Indrachithu



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J U D G M E N T

[Judgment of the Court was made by The Hon'ble CHIEF JUSTICE]

We have heard Mr.D.Sadiq Raja, learned Additional Government Pleader appearing for the appellants and Mr.T.Indrachithu, learned counsel appearing for the respondent.

2. The respondent/writ petitioner had filed writ petition seeking incentive increment from the date of her appointment for possessing higher qualification of M.A., and M.Phil. The learned Single Judge recorded that the writ petitioner was granted incentive increment for acquiring higher qualification of M.A and directed the appellants to grant incentive increment to the writ petitioner from the date of acquiring the qualification of M.Phil qualification. Aggrieved thereby, the present appeal is filed by the official respondents.

3. Learned Additional Government Pleader appearing for the appellants relies upon a judgment and order of the Division Bench of this Court in W.A(MD)No.1243 of 2023, dated 19.10.2023, wherein, the incentive increment has not been granted to the Secondary Grade Teacher on acquiring M.Phil qualification.



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4. Learned counsel for the respondent/writ petitioner submits that G.O(1D)No.18, Education Department, dated 18.01.2013, is discriminatory. The same is also discussed by the learned Single Judge. If the said G.O is made applicable to B.T Assistants, it also needs to be applicable to the Secondary Grade Teachers.

5. The learned Single Judge decided two writ petitions namely, W.P(MD)Nos.1699 and 1700 of 2016 by the impugned common judgment dated 18.08.2021. The present appeal is filed against the judgment and order in W.P(MD)No.1700 of 2016.

6. The present appellants had also challenged the said common judgment dated 18.08.2021 in Writ Appeal bearing W.A(MD)No.1243 of 2023. The same was arising out of W.P(MD)No.1699 of 2016. The Division Bench of this Court in the said writ appeal, set aside the common judgment dated 18.08.2021. The same judgment is impugned in the present appeal arising out of W.P(MD)No.1700 of 2016.



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7. It would appear that the said common judgment has already been set aside by the Division Bench in the appeal bearing W.A(MD)No.1243 of 2023 under judgment and order dated 19.10.2023.

8. As such, the present appeal also deserves to be allowed by setting aside the impugned judgment.

9. Learned counsel for the respondent/writ petitioner in the alternate submits that though the benefit of incentive increment was granted to the writ petitioner on acquiring the qualification of M.A., the same was granted from 05.03.2012, though the writ petitioner had acquired M.A qualification in the year 2000 itself.

10. *Prima facie*, it appears that when the writ petitioner had acquired the qualification of M.A., in the year 2000, just after joining the service, then, the writ petitioner may be entitled for the incentive increment at least from the year 2000. However, the respondent/writ petitioner is granted incentive increment from the year 2012. The appellants/authorities shall consider the case of the respondent/writ petitioner for grant of incentive increment from the year 2000 instead of the year 2012 on its merits and take a decision



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preferably within a period of three months from the date of receipt of a copy of this judgment. In case the authority comes to the conclusion that the writ petitioner is entitled for the incentive increment from the year 2000, then the arrears shall be paid to the writ petitioner preferably within a period of six months thereafter.

11. The Writ Appeal is accordingly disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[S.V.G., C.J.]

29.02.2024

[P.D.B., J.]

Index : Yes / No
Neutral Citation : Yes / No
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