



W.P(MD)No.2609 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.03.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.2609 of 2024
and
W.M.P(MD)Nos.2631 & 2633 of 2024

P.Juliet Saral Christy

... Petitioner

Vs.

- 1.The Finance Advisor &
The Chief Accountant Officer,
School Education Department,
College Road, Chennai-6.
- 2.The Regional Accounts Officer (Audit),
O/o the Regional Accounts Office (Audit),
School Education Department,
Madurai, Madurai District.
- 3.The Chief Educational Officer,
O/o the Chief Educational Officer,
Virudhunagar,
Virudhunagar District.
- 4.The District Educational Officer,
O/o the District Educational Officer,
Satchiyapuram, Sivakasi Taluk,
Virudhunagar District.
- 5.The Headmaster,
Government Higher Secondary School,



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ORDER

The present writ petition has been filed to call for the records relating to the impugned order of Audit Objection raised by the 2nd respondent in his proceedings Na.Ka.No.45/A9/2021, dated 04.03.2021 in so far as Para 21 of the Audit report 2017-2018 to 2019-2020 and quash the same as illegal in terms of order passed by the Hon'ble Division Bench in W.A.Nos.2328 of 2018 etc., in the case of S.Sivan Vs The Regional Accounts Officer and Others, dated 04.08.2023 and consequentially to direct the respondents to issue a Clearance Certificate and forward the pension proposal of the petitioner within the period that may be stipulated by this Court.

2. According to the writ petitioner, she had joined M.Phil in Vinayaka Mission University and she has successfully passed out. Based upon the higher qualification, incentive increment was granted. However, by way of the impugned order, dated 04.03.2021, it was informed that the incentive increments paid to the writ petitioner was wrongly sanctioned for completion of M.Phil., at Vinayaka Mission University, Salem which



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is not approved by the Tamil Nadu State Government and therefore, directed to cancel the second incentive increment granted for M.Phil., with effect from 01.01.2010 and to pay the entire amount in one installment. Challenging the same, the present writ petition has been filed.

3. The learned counsel for the petitioner had brought to the notice of the Court, a judgment of the Hon'ble Division Bench of this Court in a batch of writ appeals in W.A.Nos.2328 of 2018 etc., (S.Sivan Vs. The Regional Accounts Officer and Others) dated 04.08.2023, wherein this Court in paragraph No.24 had pointed out that for the period between 2007 and 2012, the University Grants Commission has granted recognition to the Vinayaka Mission University for conducting M.Phil., courses through distance education. Based upon the said fact, the Hon'ble Division Bench of this Court was pleased to allow the writ appeals filed by the concerned Teachers and directed the authorities to confer with the incentive increment.



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4. Per contra, the learned Government Advocate appearing for the official respondents pointed out that under G.O(Ms)No.91, Higher Education (K2) Department, dated 03.04.2009, a direction has been issued by the Higher Education Department that, M.Phil / Ph.D courses should not be offered through distance education from the academic year 2007 - 2008 and they should be offered only in the regular stream. Therefore, in view of the said Government order, the impugned order is sustainable.

5. Heard the submissions made on either side and perused the materials available on record.

6. There is no dispute that the petitioner had joined M.Phil course and completed the same in Vinayaka Mission University. The Hon'ble Division Bench of this Court in W.A.Nos.2328 of 2018, dated 04.08.2023 had an occasion to consider G.O(Ms)No.91, dated 03.04.2009. In paragraph Nos.33 and 34 of the said judgment, the Hon'ble Division Bench of this Court has held that, the bar under G.O(Ms)No.91 will apply only for the entry level post and it would not



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be a bar for conferment of incentive increment.

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7. In view of the above said facts, the order impugned in the writ petition, dated 04.03.2021 is hereby quashed and the respondents are directed to issue a clearance certificate and forward the pension proposal of the petitioner within a period of twelve (12) weeks from the date of receipt of copy of this order.

8. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

15.03.2024

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

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To

1. The Finance Advisor &
The Chief Accountant Officer,
School Education Department,
College Road, Chennai-6.

2. The Regional Accounts Officer (Audit),

6/8



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O/o the Regional Accounts Office (Audit),
School Education Department,
Madurai, Madurai District.

- 3.The Chief Educational Officer,
O/o the Chief Educational Officer,
Virudhunagar,
Virudhunagar District.
- 4.The District Educational Officer,
O/o the District Educational Officer,
Satchiyapuram, Sivakasi Taluk,
Virudhunagar District.
- 5.The Headmaster,
Government Higher Secondary School,
Padanthal, Sivakasi Taluk,
Virudhunagar District.
- 6.The Headmaster,
Government Higher Secondary School,
Pallapatty, Sivakasi Taluk,
Virudhunagar District.



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L.VICTORIA GOWRI, J.

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