



WP (MD) No. 4726 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.4726 of 2021

and

WMP(MD)No.3835 of 2021 and 16209 of 2022

P.Nalluchamy

... Petitioner

Vs

1.The Principal Secretary to the Government,
School Education Department,
Fort St.George,
Chennai District.

2.The Director of School Education,
DPI Compound,
College Road,
Chennai – 6 00 006.

3.The Chief Educational Officer,
Office of the Chief Educational Officer,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records pertaining to the impugned order in Na.Ka.No.4019/E1/2020, dated 29.01.2021 on the file of the respondent No.3 and quash the same as illegal and consequently for a direction forbearing the respondent No.3 from recovering incentive increment granted to the



WP (MD) No. 4726 of 2021

petitioner in the light of the judgment of this Court in WP(MD)No.21368 of 2014 dated 05.04.2017, WA(MD)No.938 of 2018, dated 13.07.2018 and WA(MD)No. 658 of 2019 dated 01.07.2019.

For Petitioner : Mr.Aswin Rajasimhan

for M/S.Lajapathi Roy Associates

For Respondents : Mr.K.Balasubramani,

Special Government Pleader

ORDER

The petitioner is a Middle School Headmaster. He was initially appointed as a Secondary Grade Teacher. Subsequently he acquired the qualification of B.Lit., and therefore he was promoted as a Middle School Headmaster. The petitioner has acquired an additional qualification of B.Ed. Based on this qualification of B.Ed. he has been provided with an incentive increment. The incentive increment which has been provided for the qualification of B.Ed, has now been cancelled and an order of recovery has been passed as against this petitioner and therefore, the petitioner is before this Court.



WP (MD) No. 4726 of 2021

2.The learned Counsel for the petitioner by referring the judgments of this Court in WA(MD)No.1429 of 2022 and WA(MD)Nos.498 to 504 of 2023 submits that the issue has already been settled by the Division Bench that similarly placed persons are entitled for the incentive increment for the additional qualification of B.Ed.

3.The learned Special Government Pleader appearing for the respondents by referring the orders of this Court passed in WP(MD)Nos.424 of 2020 etc., batch submits that I myself had taken a decision on the very same issue that similarly placed Teachers, who got B.Ed degree after the promotion are not eligible for incentive increment, since this B.Ed degree is the qualification for the post of Middle School Headmaster.

4.The learned Special Government Pleader has also relied on the judgments of two other Division Benches passed in WA.No.499 of 2024 and WA(MD)No.334 and 358 of 2021. In WA(MD)No.334 and 358 of 2021, the Division Bench taking note of the orders passed by the other Division Bench on the same issue, discussed in detail and rejected the claim of the similarly placed persons as under:



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“11.Perusal of the Special Rules clearly reveal that for being promoted as Headmistress of a Middle School (B.Ed., grade), a Secondary Grade Teacher should either possess B.T., or B.Ed., or degree in Tamil of any University. Therefore, it is clear that B.Lit., degree (Tamil) is enough to be promoted as Headmistress of a Middle School (B.Ed., grade). It is further clear that it is equivalent to B.T/B.Ed., degree. In the present case, admittedly on the strength of B.Lit., degree the petitioners have been promoted as Headmistresses of Middle School.

12.As per G.O.Ms.No.42, Education Department dated 10.01.1969, one incentive increment has to be awarded to the Teachers, who acquired higher educational qualification. Unless the qualification acquired by a Teacher is higher than the minimum qualification required for a particular post, incentive increment cannot be granted. In the present case, B.Lit., which is equivalent to B.Ed., is one of the minimum required educational qualification for being promoted as Headmistress of a middle school. Therefore, the petitioners are not entitled to seek incentive increment for acquiring B.Ed., degree, which is not only an additional qualification but also equivalent to B.Lit., degree. Only if the petitioners acquire a P.G. Degree, the same can be considered to be a higher qualification.



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13. The writ Court had relied upon the judgment of the Division Bench of this Court in W.A.(MD)No.435 of 2017 dated 25.04.2017, wherein, the Division Bench had relied upon a reply given under the Right To Information Act to arrive at a finding that incentive increment can be granted for acquiring B.Ed., degree by the Teachers, those who have already acquired B.Lit., degree. Perusal of the Tamil portion extracted in the writ order reveals that under RTI reply, the Official had stated that since promotion could be granted to a Secondary Grade Teacher based upon B.Lit., degree, the acquisition of B.Ed., degree is not necessary and if acquired, it can be considered to be a higher qualification.

14. The said RTI reply of the concerned official is quite contrary to the Special Rules, which clearly indicates that B.T., B.Ed., and B.Lit., degrees are equivalent educational qualifications and possession any of them is the basic qualification required for being promoted and appointed as Headmistress of a Middle School.

15. Therefore, with due respect to the Hon-ble Division Bench, we are not concurring with the said views. The writ Court had solely relied upon the said Division Bench judgment to allow the said writ petitions, which we find to be not in consonance with the statutory Service Rules.



WP (MD) No. 4726 of 2021

16. In view of the above said deliberations, the order of the writ Court is set aside and the writ appeals are allowed. No costs. Consequently, connected miscellaneous petitions are closed.”

5. In view of the above decisions of the Division Bench, this Court is not inclined to interfere with the impugned order and accordingly this writ petition is dismissed. No costs. Consequently connected miscellaneous petitions are closed.

19.12.2024

Internet : Yes / No

dsk

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WP (MD) No. 4726 of 2021

B.PUGALENDHI, J.

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WP(MD)No.4726 of 2021

19.12.2024