



W.P.(MD)No.6065 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.6065 of 2024

and

W.M.P.(MD).No.5703 of 2024

C.Rajkumar

... Petitioner

Vs.

1.The Chief Educational Officer,
Chief Educational Office,
Palani,
Dindigul District.

2.The Headmaster,
Government Girls Higher Secondary School,
Palani,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Aa.Thi.Mu.No. 386/Aa5/2019, dated 18.03.2019 and Aa.Thi.Mu.No. 6008/Aa1/2023 dated 04.09.2023 issued by the first respondent and quash the same and consequently direct the first respondent and second respondent to sanction and disburse forthwith advance increments for possessing Higher qualification of M.Phil. admissible to the petitioner.



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For Petitioner : Mr.S.Sades Kumar

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

This Writ Petition has been filed to quash the orders dated 18.03.2019 and 04.09.2023 passed by the first respondent and consequently direct the first respondent and second respondent to sanction and disburse forthwith advance increments for possessing Higher qualification of M.Phil. admissible to the petitioner.

2. Heard Mr.S.Sades Kumar, learned counsel for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader for the respondents.

3. By consent of both the parties, this writ petition is taken up for final disposal.

4. The petitioner who was appointed as B.T.Assistant in the year 2007 had joined M.Phil degree course in the year 2006 through distance education mode. However, he completed his course only in the year 2015 and secured



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M.Phil degree. When the petitioner sent a representation on 11.02.2019 to sanction an incentive increment for having acquired the higher qualification along with the ratification to the first respondent through the second respondent, the first respondent vide order dated 18.03.2019 rejected the said proposal stating that as per the Rule, approval could be granted for Teachers only for pursuing Higher Education and Ratification is not permitted under the Rule. Again the petitioner sent a representation stating that he has joined the course even before joining the department and hence there is no question of getting prior permission. However, the first respondent had once again rejected the proposal vide order dated 04.09.2023 stating that the second respondent has not received any representation from the petitioner and also seeks explanation for the delay in claiming incentives as well as ratification.

5. Admittedly, the petitioner had joined the course before he joined in the post, but however he could pursue the same after an inordinate delay but completed the course and secured the degree in the year 2015. Curiously, the first respondent has returned the file stating why the petitioner had taken a long time to complete the course. It is understandable if the University raises a question whether the petitioner has got an opportunity to write examination for the course joined in the year 2006. Only because the possibility of writing



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examination was not shut, the petitioner could appear for the examination and has secured the degree. So that should not have actually disturbed the first respondent and at the best the first respondent could have only asked whether any permission has been obtained after the petitioner joined duty to write examination. But the petitioner has rightly submitted an application seeking ratification as well. Even without knowing that he should also seeks permission for purpose of writing examination, but however the Rule does not specifically says that even though the individual has joined the course prior to the appointment, for writing the examination and continuing the course after appointment, prior permission should be required. However, even in those cases where the individuals joined in the Department, but had secured the higher qualification without getting prior permission, favourable orders have been issued every now and there.

6. Hence, in view of the above stated reasons, the respondents shall not deny the rightful entitlement of the petitioner for pedantic reasons and consider the application of the petitioner in an objective manner and pass an appropriate order for sanctioning the incentive increment within a period of six weeks from the date of receipt of a copy of this order.



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WEB COPY 7. With the above direction, this Writ Petition is **disposed of**. No costs.

Consequently, connected miscellaneous petition is closed.

04.04.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To

- 1.The Chief Educational Officer,
Chief Educational Office,
Palani,
Dindigul District.
- 2.The Headmaster,
Government Girls Higher Secondary School,
Palani,
Dindigul District.



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R.N.MANJULA, J.

Nsr

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