



WP(MD) No.6676 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.04.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.6676 of 2024

and

W.M.P(MD)No.6205 of 2024

D.Geetha Thangamalar

Post Graduate Teacher, (Physical Education Director),

Kavimani Desika Vinayakam Pillai Government Model Girls

Higher Secondary School,

Kottai, Nagercoil – 629 002,

Kanyakumari District.

... Petitioner

Vs.

1.The Chief Educational Officer

Kanyakumari District.

2.The District Educational Officer,

Nagercoil,

Kanyakumari District.



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3.The Headmaster

Kavimani Desika Vinayakam Pillai Government,
Model Girls Higher Secondary School,
Kottai, Nagercoil 629 002,
Kanyakumari District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 3rd respondent herein in Na.Ka.No. 16/2024 dated 02.02.2024, quash the same further direct the respondents herein to restore the incentive increments for M.Phil Degree payable to the petitioner and consequently refund the amount recovered from the petitioner from February 2024 onwards.

For Petitioner : Mr.E.V.N.Siva

For Respondents : Mr.T.Amjadkhan

Government Advocate



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ORDER

The present writ petition has been filed seeking a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 3rd respondent herein in Na.Ka.No. 16/2024 dated 02.02.2024, quash the same and further direct the respondents herein to restore the incentive increments for M.Phil Degree payable to the petitioner and consequently, refund the amount recovered from the petitioner from February 2024 onwards.

2. Heard Mr.E.V.N.Siva, learned counsel for the petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for the respondent.

3. The learned counsel for the petitioner submitted that the impugned order, dated 2.2.2024 was issued for recovery of excess payment of Rs.87,834/- that was made to the petitioner and



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the discrepancy was found out during an audit.

4. The learned counsel for the petitioner further submitted that similarly placed persons have already filed a writ petition in W.P(MD)No.290 of 2018, wherein, the following order has been passed :

“3.In the present case, it is not in dispute that the petitioner herein acquired higher qualification only in physical education. Considering these aspects, the petitioner was granted an incentive increment.

4.The same is now sought to be reviewed in view of the audit objection. The audit objection is to the effect that in view of the issuance of G.O.Ms.No. 177 School Education Department dated 13.10.2016, the petitioner can be granted incentive increment only from the date of issuance of G.O.Ms.No.177. Therefore, the incentive earlier granted is sought to be recalled. The petitioner has been directed to remit the arrears of such increment amounts already received by him.



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5.The learned counsel appearing for the petitioner contended that the writ petitioner was rightly granted incentive increment earlier and that therefore the order directing recovery as well as re-fixation of his pay will have to be quashed.

6.Per contra, the learned Special Government Pleader appearing for the respondents contended that there is a distinction between the Physical Education Teacher and Physical Director and that only the Physical Education Teachers could have been granted incentive increment for acquiring higher qualification and the petitioner being a Physical Director was not eligible to be conferred with such a incentive increment.

7.This Court is of the view that the distinction sought to be made between the Physical Education Teacher and Physical Director would not help to resolve the issue on hand. The question that is to be posed is whether the petitioner can be considered as a Post Graduate Teacher or not. A mere look at the order dated 22.01.2007 regularizing the services of the petitioner would show that the petitioner was appointed as Post Graduate Teacher. For Post



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Graduate Teachers acquiring higher qualification incentive increment were allowed.

8.The issue on hand is covered by more than one decision of this Court. The learned counsel for the petitioner placed reliance on the order dated 17.10.2014 rendered in WP(MD)No.17025 of 2014 and the order dated 28.06.2017 in WP(MD)No.7092 of 2016. In the typed set of papers, the learned counsel for the petitioner had enclosed an order dated 12.06.2009 made in WP(MD)No.1890 of 2009. The direction given by this Court was duly implemented by the department by issuing appropriate Government orders. It is not in dispute that the cases relied on by the petitioner's counsel govern the case on hand also. Therefore, the petitioner being a Post Graduate Teacher was certainly entitled to such incentive increment. That he was appointed as a Physical Director from the very beginning is not of any relevance. What matters is whether he is holding the Post Graduate Teacher post or not. Once it is seen that he is a Post Graduate Teacher, the irresistible inference is that the impugned order has to go. Therefore, the order impugned in the writ petition is



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quashed. The writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.”

5. Since the petitioner is also similarly placed, he is also entitled to the similar relief granted in W.P.(MD)No.290 of 2018 dated 12.02.2018.

6. Hence, following the same, this writ petition is **allowed**. No costs. Consequently, connected miscellaneous petition is closed.

16.04.2024

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

RM



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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.6676 of 2024

Dated:
16.04.2024