



W.P.(MD)No.9999 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.9999 of 2022

and WMP (MD) Nos.7124 and 7125 of 2022

T.Elangovan

:

Petitioner

Vs.

1.The Director of Elementary Education,
College Road, Chennai -6.

2.The Chief Educational Officer,
Tanjore, Tanjore District.

3.The District Educational Officer,
Kumbakonam, Tanjore District.

4.The Block Educational Officer - I,
Kumbakonam, Tanjore District.

: Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to impugned proceedings in Na.Ka.No.012605/E1/2016 dated 11.08.2016 of the 1st respondent herein and the consequential impugned proceedings of 2nd respondent in Na.Ka.No. 3096/E1/2020 dated 11.04.2022 which was received by petitioner on 25.04.2022 and



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quash the same and consequently direct the respondents herein to repay a sum of Rs.4,825 to the petitioner and continuously pay the incentive increment for petitioners B.Ed degree and give annual increment from 01.01.2021 onwards to the petitioner .

For Petitioner : Mr.T.Pon Ramkumar

For Respondents : Mr.N.Ramesh Arumugam

Government Advocate

ORDER

Challenging the impugned proceedings dated 11.08.2016 passed by the first respondent in Na.Ka.No.012605/E1/2016 and culminating in passing of recovery proceedings in Na.Ka.No. 3096/E1/2020 dated 11.04.2022, the petitioner has come forward with the present writ petition.

2. The case of the petitioner is that he passed DTED in the year 1990 and B.Lit. On 1.08.1995. He was appointed as Secondary Grade Teacher in the Panchayat Union Primary School, Vakkaramari, Mayiladuthurai Union, Mayiladuthurai District. Thereafter he got permission from the respondents to study MA (Tamil) and passed in the year 1998. On 29.7.2005, he was promoted as Primary school



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Headmaster. On 4.11.2007, he was promoted as Tamil pandit. The petitioner was also awarded first incentive increment for completion of M.A.Degree with effect from 05.11.2007. Thereafter, on 2.6.2008, he was promoted as Middle School Headmaster, on the basis of his B.Lit qualification and posted in Panchayat Union Middle School, Thirumangalam, Mayiladuthurai District. Thereafter, he got permission from the respondents to study B.Ed and passed B.Ed in the year August 2012. Thereafter, on 30.8.2013, he was promoted as Block Educational officer, Numbiiyur Union, Erode District. At present, he is working as Block Educational officer (on Deputation), in Pabanasam, Papanasam Union. Tanjore District.

3. The further case of the petitioner is that a pass in B.Lit (Tamil) is the prescribed qualification for the post of Middle School Headmaster. On 02.06.2008, he got promotion as Middle School Headmaster. Since he had passed B.Ed degree on 13.08.2012, B.Ed degree is an additional qualification and he is fully eligible to get my first incentive increment for his B.Ed degree. The petitioner had also applied before the Block Educational officer, Mayiladuthurai, for awarding second incentive increment to his B.Ed. degree. Thereafter, the Block



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Educational officer, Mayiladuthurai, had granted incentive increment for completion of B.Ed degree with effect from 14.08.2012 by his proceedings dated 07.2.2013, after taking note of Government Orders in G.O.Ms.No.42 (Education), dated 10.01.1969, G.O.Ms.No.1022 (Education), dated 22.06.1971 and G.O.Ms.No.1023 (Education), dated 09.12.1993, and various proceedings dated 07.06.1991 and 03.12.2010 of the first respondent. Based on the said Government Orders referred above and proceedings of the first respondent herein and the proceedings of third respondent, the petitioner is receiving the incentive increment for the B.Ed degree without any hindrance.

4. The third respondent by letter dated 07.12.2020 issued a show cause notice to the petitioner stating that an audit objection was raised with regard to granting incentive increment for B.Ed. degree and thereby the petitioner was directed to submit his objections immediately. In response to that, the petitioner has submitted a letter dated 10.12.2020 requesting a copy of the audit report. Again, the second respondent by proceedings dated 26.07.2021, enclosed the copy of the audit report and directed the petitioner to submit his objections, if any, within three days from the date of receipt of the copy of the said report.



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5. On 13.08.2021, the petitioner has sent a representation to the second respondent requesting some more time. Again the second respondent by proceedings dated 04.03.2022 which was received by the petitioner on 04.04.2022, directed the petitioner to submit his reply within a period of one week. Immediately, on 11.04.2022, the petitioner sent a detailed explanation to the second respondent along with judgments and proceedings of the first respondent stating that he is entitled to receive the incentive increment for B.Ed degree.

6. The learned counsel for the petitioner also relied on the order of a Division Bench of this Court in W.A.(MD) No.435 of 2017, wherein this Court had directed the respondents therein to award incentive increment for B.Ed degree. Further, challenging the same, the Review Petition filed by the Government has also been dismissed by this Court by its order dated 20.01.2022. The learned counsel for the petitioner further relied on the judgment of the Division Bench of this Court in W.A.(MD) No.2124 of 2023 and batch cases, dated 20.12.2023 and the relevant paragraphs read as under:-

“8. It is not in dispute that the writ



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petitioners have acquired the qualification only after their promotion to the post of Middle School Headmaster and therefore, the writ petitions are not entitled for incentive increments for the qualification acquired after becoming Middle School Headmasters. However, the excess payment if any made already need not be recovered from him, since there was no misrepresentation on the part of the writ petitioners. More so, such incentive increments were wrongly granted at the instance of the Director of Elementary Education or the Subordinate authorities by wrongly interpreting the Government Policy.

9. Thus, we are in agreement with the learned Single Judge regarding setting aside the recovery alone. However, it is made clear that the writ petitioners are not entitled for incentive increments for the qualification of B.Ed., degree. Accordingly, the re-fixation done by the competent authorities stands confirmed.

10. Accordingly, W.A.(MD) Nos.2124, 1526, 1527, 1819, 1820 of 2023 filed by the Writ Petitioners stand dismissed and the orders dated 18.08.2023, 02.06.2022, 02.06.2022, 23.09.2022, 23.09.2022 in W.P.(MD) Nos.428, 22272 22271 of 2017, 4437, 3067 of 2022



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stands confirmed. W.A.(MD) Nos.754 to 756 of 2018, 518, 519, 525, 529, 530 of 2020 and 657 of 2022 filed by the State stand allowed and the order 21.03.2017, 21.03.2017, 21.03.2017, 18.09.2019, 18.09.2019, 18.09.2019, 17.09.2019, 17.09.2019, 25.01.2022 passed in W.P.(MD) Nos.428, 22272, 22271 of 2017, 4437, 3067 of 2022, 14427 to 14429 of 2013, 10464 to 10466, 13614, 13615 of 2017 and 3697 of 2018 are set aside. In respect of the Writ Appeal in W.A.(MD) No.1016 of 2022, since the request of the respondent for incentive increments for acquiring both B.Ed. and M.A. degrees, he is entitled to incentive increment only for acquiring M.A. degree as per G.O.Ms.No.42, Education Department, dated 10.01.1969, the Writ Appeal is partly allowed and W.P.(MD) No.24997 of 2018 is dismissed in respect of the incentive increment for acquiring B.Ed. qualification and allowed in respect of acquiring M.A. degree qualification. No costs. Consequently, connected miscellaneous petitions are closed.”

7. The contention of the petitioner is that the second respondent without considering the explanation/reply and without



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affording any opportunity, passed an order of recovery stating that since the petitioner was promoted as Middle School Headmaster with the qualification of B.Lit. and as per the proceedings of the first respondent in Na.Ka.No 012605/E1/2016 dated 11.8.2016, after the said promotion, if the candidate passed B.Ed. degree, he was not eligible for getting incentive for B.Ed degree and thereby, cancelled the incentive increment granted to B.Ed degree of the petitioner and directed to recover a sum of Rs.4,77,325/- in 35 installments.

8. Aggrieved over the same, the petitioner has come forward before this Court with the present writ petition.

9. A counter-affidavit has been filed by the third respondent on 28.06.2022 wherein it has been stated as follows:-

“10. Regarding the averments in para 6 of the affidavit of the petitioner, it is submitted that as already stated above, B.Ed. degree is one of the requisite basic qualification for appointment to the post of Middle School HeadMaster and hence the B.Ed. degree cannot be considered as additional higher qualification for the purpose of granting



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incentive increment in the post of Middle School Head Master. It is further submitted that the Judgment of this Hon'ble Court relied upon by the petitioner have no common applicability. It is submitted that there is no provision in the existing government orders to grant incentive increment for B.Ed. degree acquired while holding the post of Middle School HeadMaster. Hence this contention of the petitioner is baseless.

11. Regarding the averments in ground 'a' of the affidavit of the petitioner, it is submitted that there is no provision in the existing government orders for the sanction of incentive increment for B.Ed. degree acquired while holding the post of Middle School Head Master and hence the order issued by the 2nd respondent is just and proper and there is nothing arbitrary as alleged by the petitioner.

12. Regarding the averments in ground 'b' of the affidavit of the petitioner, it is submitted that B.Ed. degree qualification is a requisite basic qualification for appointment as B.T.Middle School Head Master and hence such a degree cannot be considered as higher



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qualification in the post of Middle School HeadMaster. It is further submitted that there is no provision in the existing government orders relied upon by the petitioner for the sanction of Incentive increment for B.Ed. degree to Middle School HeadMasters. Hence this contention of the petitioner is baseless.

13. Regarding the averments in ground 'c' of the affidavit of the petitioner, it is submitted that as per rule 6(B) of TamilNadu Elementary educational subordinate service rules, Both B.Ed. and B.Lit. degree as allowed for promotion purpose only. When both degree is requisite equal qualification for the post of Middle School HeadMaster, B.Ed. degree cannot be considered as higher qualification for the purpose of incentive increment.”

10. The learned Government Advocate appearing for the respondents submitted that there is no provision in the existing Government Orders for the sanction of incentive increment for B.Ed degree to the Middle School Headmaster if they acquire such degree after their promotion. He further submitted that the petitioner cannot claim the incentive increment as a matter of right.



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11. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents and perused the material available on record.

12. The learned counsel for the petitioner has relied on the judgment of the Division Bench of this Court in W.A.(MD) No.2124 of 2023 and batch cases, dated 20.12.2023, wherein, it has been categorically stated that “this Court was in agreement with the learned Single Judge regarding setting aside the recovery alone. However, it is made clear that the writ petitioners are not entitled for incentive increments for the qualification of B.Ed., degree. Accordingly, the re-fixation done by the competent authorities stands confirmed”.

13. The relevant portion of the aforesaid judgment dated 20.12.2023, is extracted hereunder:-

“9. Thus, we are in agreement with the learned Single Judge regarding setting aside the recovery alone. However, it is made clear that the writ petitioners are not entitled for



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incentive increments for the qualification of B.Ed., degree. Accordingly, the re-fixation done by the competent authorities stands confirmed.”

14. In view of the ratio laid down by the Division Bench of this Court in W.A.(MD) No.2124 of 2023, dated 20.12.2023, the impugned proceedings dated 11.08.2016 passed by the first respondent in Na.Ka.No.012605/E1/2016 and the consequential proceedings of the second respondent in Na.Ka.No. 3096/E1/2020 dated 11.04.2022, are liable to be quashed and accordingly, the same is quashed.

15. The writ petition stands allowed. Consequently, the connected miscellaneous petitions are closed. No costs.

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Index : Yes / No

Internet : Yes / No

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J.SATHYA NARAYANA PRASAD, J.

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