



W.P.(MD)No.10253 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.10253 of 2024

and

W.M.P.(MD).No.9219 of 2024

T.Bhuvaneswari

... Petitioner

Vs.

1.The Joint Director of School Education (Personnel),
Chennai-6.

2.The Chief Educational Officer,
Nagercoil-629 001, Kanyakumari District.

3.The Head Master,
Government Higher Secondary School,
Peruvilai-629 003,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the entire records pertaining to the order issued by the third respondent in ந.க.எண்.21/2024 நாள் 06.04.2024 and quash the same and direct the first respondent to ratify the permission granted by the third respondent for M.Phil degree of petitioner and consequently direct the respondents continue to award incentive increment for M.Phil degree with effect from the date of passing of the said decree to the petitioner.



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For Petitioner : Mr.P.Prabhakaran

For R-1 & R-2 : Mr.M.Sidharthan,
Additional Government Pleader

ORDER

By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

2. Heard Mr.P.Prabhakaran, learned counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for respondent Nos.1 and 2.

3. This Writ Petition has been filed challenging the impugned order passed by the third respondent in ந.க.எண்.21/2024, dated 06.04.2024 and consequently direct the first respondent to ratify the permission granted by the third respondent for M.Phil degree of the petitioner and further, direct the respondents to award incentive increment for M.Phil degree with effect from the date of passing of the said degree to the petitioner.

4. The petitioner is working as B.T. Assistant in the Government Higher Secondary School and the third respondent had granted permission to do higher studies in M.Phil (English) on 17.05.2023. She had completed her course and



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awarded with M.Phil Degree on 09.09.2015 and for which, she has been given awarded with incentive increment. However, the third respondent has passed an order dated 06.04.2024, cancelling the incentive increment and ordered for recovery of the amount paid towards incentive increment so far. The reason for rejection is that the petitioner has not obtained prior permission.

5. Mr.P.Prabhakaran, learned counsel appearing for the petitioner submitted that out of ignorance, she had obtained permission from the third respondent, but, subsequently, she had also applied to the first respondent to ratify the permission already granted. It is seen that the impugned order has been passed without putting the petitioner on notice. He further submitted that on this ground itself, the impugned order is liable to be quashed. Further, the petitioner had also sent a representation on 09.04.2024 to the first respondent to ratify the permission granted by the third respondent for her M.Phil degree and to set aside the impugned order passed by the third respondent and also requested the first respondent to pay the incentive increment for her M.Phil degree. Since no action has been taken by the first respondent, the petitioner has filed this present Writ Petition.



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6. Mr.M.Siddharthan, learned Additional Government Pleader

appearing for respondent Nos.1 and 2 would submit that as per G.O.(Ms).No. 944, Education (D2) Department, dated 29.07.1989, prior permission has to be obtained and it has been made mandated in view of the subsequent judicial pronouncements made in W.A.No.570 of 2021 and C.M.P.No.2609 of 2021. But on perusal of the said order, it is seen that it is only an interim order and it has not been dealt with the merits of the matter.

7. It is seen that this Court has already disposed of the similar matter in W.P.(MD).No.8286 of 2024 on 01.04.2024. In the said order, the following observations have been made:

“9. In fact prior permission to do any higher decree is to ensure that the employee does not divert his/her attention only towards their higher education by compromising their regular duties. Only for the said reason, whenever prior permission is granted, a condition will be imposed that the permission granted to the individual is without detrimental to their regular duties. If the higher qualification was obtained without making any compromise to the regular work and there is



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no complaint in this aspect as well, I do not even find any reason why subsequent ratification cannot be done. Admittedly, there is no department action pending against the petitioner during the relevant point of time when she was studying M.Phil degree on the ground that her attention was diverted more towards her higher studies and focussed less towards her work commitments. No Rule shall be read with, without understanding the very object and purpose of it. Rules and regulations are made for a better administration and in the best interest of the institution and the individuals. Hence, every effort should be taken to adopt a right balance while interpreting and applying the same to any fact situation. Hence, I feel it appropriate to set aside the impugned order.

10. Accordingly, the order passed by the 2nd respondent vide his proceedings in Mu.Mu.No. 8125/A3/A2/2019 dated 09.04.2021 is set aside and the second respondent is directed to consider the M.Phil degree obtained by the petitioner as a degree acquired after obtaining a deemed permission and pass appropriate orders to accord her the incentive increment within a period of four weeks from the date of receipt of a copy of this order.”



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8. In view of the aforestated reasons and in view of the earlier judicial pronouncements, this Writ Petition stands **allowed** and the impugned order passed by the third respondent in ந.க.எண்.21/2024, dated 06.04.2024, is set aside and the second respondent is directed to consider the M.Phil degree obtained by the petitioner as a degree acquired after obtaining a deemed permission and pass appropriate orders to sustain the incentive increment already awarded within a period of four (4) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

26.04.2024

Index:yes/no
Internet:yes/no
TSG
To

1.The Joint Director of School Education (Personnel),
Chennai-6.

2.The Chief Educational Officer,
Nagercoil-629 001, Kanyakumari District.



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R.N.MANJULA, J.

TSG

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