



W.P.(MD)No.10525 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.10525 of 2024

and

W.M.P.(MD).No.9445 of 2024

L.Christal Jeya

... Petitioner

Vs.

1.The District Educational Officer (Secondary Grade),
Marthandam,
Kanniyakumari District.

2.The Correspondent,
M.M.K.M.High School,
Varathattu – 629 172,
Kanniyakumari District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 1st respondent herein Na.Ka.No. 5397/A3/2023, dated 07.03.2024, quash the same and further direct the 1st respondent herein to sanction and disburse incentive increments to the petitioner for acquiring higher qualification of M.A. Degree from the date of initial appointment within the reasonable time as may be stipulated by this Court.

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



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For Respondents : Mr.T.Amjad Khan for R1
Government Advocate

ORDER

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

2. Heard Mr.E.V.N.Siva, learned counsel appearing for the petitioner and Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents.

3. This Writ Petition has been filed seeking to quash the impugned proceedings issued by the first respondent in Na.Ka.No.5397/A3/2023, dated 07.03.2024 and consequently direct the first respondent to sanction and disburse incentive increments to the petitioner for acquiring higher qualification of M.A.Degree from the date of initial appointment of the petitioner.

4. The petitioner was appointed as 'Secondary Grade Teacher' in the second respondent School on 09.06.1997. The petitioner has possessed qualification as B.A., B.Ed and M.A (History). The grievance of the petitioner is that she is entitled for sanction of incentive increment for acquiring higher qualification ie., M.A. Degree. The second respondent School has submitted a proposal to the first respondent on 06.10.2017 for sanction of incentive



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increments. The first respondent herein, vide proceedings in A.thi.mu.No. 5812/A3/2017, dated Nil.10.2017, refused the incentive increments by citing G.O.(Ms).No.394, School Education (D2) Department, dated 12.09.1997. As against which, the petitioner had filed W.P.(MD).No.4219 of 2018 before this Court and this Court, vide order dated 09.02.2023, while holding that the impugned order is a non speaking order, remanded the matter to the first respondent for passing a speaking order. Pursuant to the said order, the first respondent herein has passed the present impugned order in Na.Ka.No. 5397/A3/2023, dated 07.03.2024 thereby refused to grant incentive increments by citing another Government Order in G.O.(Ms).No.155 (School Education (D2) Department, dated 03.10.2002. Challenging the same, the present Writ Petition has been filed.

5. When a similar issue came up for consideration before this Court in W.P.(MD).No.1020 of 2019, vide order dated 28.02.2020, it was allowed and against which, the State has preferred W.A.(MD).No.616 of 2021 and the Division Bench has dismissed the Writ Appeal and confirmed the order passed by the learned Single Judge. The relevant portion of the said Judgment is extracted hereunder:



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“11. It was argued that no person has got vested right for claiming incentive increment. Though this submission may be partially right, it is the policy decision taken by the Government to grant incentive increment to teachers to encourage them to acquire higher qualification, which will undoubtedly help the students. Thus, when the Government has taken a policy decision to grant incentive increment, the teacher, who has acquired higher qualification is entitled to apply and seek for incentive increment. If it is denied, this Court can consider as to whether the reason for denial is just and proper. In the instant case, first respondent was not at all denied incentive increment, rather he has granted notionally in terms of G.O.Ms.83, School Education (Elementary Education) 1(2) Department, dated 28.04.2017, but the monetary benefits only from the date of the Government Order dated 28.04.2017. This restriction of the date has absolutely no nexus to the object sought to be achieved by introducing the scheme to grant increment to encourage the teachers, who acquired higher qualification, thereby increasing the standard of education and this is precisely the reason, the increment has been termed as an incentive increment.

12. The learned Special Government Pleader seeks to stretch the matter too far by arguing that the very acquisition of M.Ed., decree itself cannot be relied on by the first respondent for the purpose of claiming incentive increment, because it was acquired prior to the first respondent completing the Child Psychology Training and prior to his approval of appointment.



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This argument has to necessarily fail as the appointment of the first respondent has been approved. Such approval enures in favour of the first respondent from the date of his appointment. But the condition being that they will be entitled to the requisite scale of pay only on completion of Child Psychology Training. It was completed by the first respondent on 31.05.2003 and his appointment was approved on 02.06.2003, to mean that the first respondent will be entitled for payment of B.T. Assistant Scale from the said date. Therefore, the appellants are not justified in contending that M.Ed. degree cannot be relied upon by the first respondent for claiming increment. Thus, for the above reasons, we are of the view that the first respondent is entitled for payment of incentive increment for acquisition of M.Ed. qualification with effect from 02.06.2003.

13.In the result, the Writ Appeal is dismissed for the reasons stated above along with the reasons given by the learned Writ Court while allowing the Writ Petition. Consequently, connected Miscellaneous Petition is closed. No costs ”

6. In the light of the decision cited supra, this Writ Petition stands **allowed** and the impugned order passed by the first respondent herein in Na.Ka.No.5397/A3/2023, dated 07.03.2024 is quashed and the respondents are directed to grant incentive increment to the petitioner for having qualified with M.A., Degree within a period of eight weeks (8) weeks, from the date of receipt



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of copy of this order. No costs. Consequently, connected miscellaneous

petition is closed.

29.04.2024

Index:yes/no

Internet:yes/no

Ncc : yes/no

TSG

To

The District Educational Officer (Secondary Grade),
Marthandam, Kanniyakumari District.



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R.N.MANJULA, J.

TSG

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