



W.A(MD)No.1201 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.07.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

W.A(MD)No.1201 of 2024

P.Chandramony

... Appellant/Writ Petitioner

VS.

1.The Chief Educational Officer,
Tenkasi District.

2.The District Educational Officer,
Sankarankovil,
Tenkasi District.

3.The Headmaster,
Government Higher Secondary School,
Alangulam,
Tenkasi District.

4.The Headmaster,
Government High School,
Pottal,
Ambasamuthiram Taluk,
Tirunelveli District.

... Respondents/Respondents

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 24.02.2023 made in W.P(MD)No.130 of 2022.



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For Appellant

: Mr.V.Panneer Selvam

For Respondents

: Mr.S.Shaji Bino
Special Government Pleader

JUDGMENT

[Judgment of the Court was made by R.SURESH KUMAR, J.)

This intra Court Appeal has been directed against the order passed by the Writ Court, dated 24.02.2023 made in W.P(MD)No.130 of 2022 in a common order.

2.It is brought to our notice by Mr.V.Paneer Selvam, learned counsel appearing for the appellant that the very same common order has already been challenged in some of the writ appeals and especially against W.P(MD)No.1059 of 2022, intra court appeal has been filed in W.A(MD)No. 838 of 2023, which was considered and the Division Bench allowed the said Writ Appeal by order, dated 08.09.2023. The relevant portion of the order reads thus:



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'12. Accordingly, W.A.(MD) No.23 of 2022 filed by the respondent – Department is dismissed. W.A.(MD) No. 838 of 2023 filed by the writ petitioner is allowed and the order dated 24.02.2023, passed by the learned Single Judge in W.P.(MD) No.1059 of 2022 is set aside insofar as it relates to the writ petitioner alone. The respondent – Department is directed to comply with the directions of the learned Single Judge in the order dated 29.03.2021 in W.P.(MD) No.7014 of 2021, within a period of twelve weeks from the date of receipt of a copy of this Judgment. No costs. Consequently, connected miscellaneous petition is closed.'

3.The learned counsel has also brought to our notice that similar orders passed by the writ Courts at various points of time had been questioned by way of intra court appeal, as the issue involved in these cases is the grant of advance incentive increment for having acquired the higher qualification allegedly without obtaining prior permission from the employer.

4.Even though the learned counsel appearing for the appellant/writ petitioner would submit that in the present case such a prior permission also has been obtained unmindful of the same since the view has already been taken by various Division Benches that because of that



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alleged reason of non-obtaining prior permission before acquiring the higher qualification, the entitlement of getting advance incentive increments cannot be denied.

5.In this context, two more Division Bench Judgments also had been quoted by the learned counsel appearing for the appellant/writ petitioner. The first Judgment is ***W.A(MD)No.1733 of 2023, dated 29.09.2023 [The Chief Educational Officer and another Vs. D.Anne Angel Jeba and another]*** and another Judgment is ***W.A(MD)No.207 of 2024, dated 27.02.2024 [D.Beulah Rajaselvi Vs. The District Educational Officer and others]***.

6.In view of the consistent stand that has been taken by various Division Bench Judgments including the Division Bench Judgment, dated 08.09.2023, wherein the very same impugned common order since has been questioned and the Writ Appeal also has been allowed, following the same, we are inclined to allow this Writ Appeal also.



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7. Accordingly, this Writ Appeal is allowed to the term indicated above. In view of the disposal of this Writ Appeal, the benefit of sanctioning advance incentive increment to the appellant/writ petitioner for having acquired higher qualification shall be made, within a period of eight weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs.

[R.S.K.,J.] [G.A.M.,J.]
23.07.2024

NCC : Yes / No
Index : Yes / No
ps



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R.SURESH KUMAR,J.
and
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ORDER MADE IN
W.A(MD)No.1201 of 2024

DATED : 23.07.2024