



W.P.(MD)No.12893 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.12893 of 2024 &
W.M.P.(MD)No.11471 of 2024

N.Mani

... Petitioner

VS.

- 1.The Chief Educational Officer,
O/o.the Chief Educational Officer,
Sivagangai District.
- 2.The District Educational Officer,
O/o.the District Educational Officer,
Sivagangai District.
- 3.The Block Educational Officer,
O/o.the Block Educational Officer,
Thiruppathur Taluk,
Sivagangai District.
- 4.The Panchayat Union Middle School,
Rep. by its, The Head Mister,
Vaniyampatti, Thiruppathur Taluk,
Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus calling for the records



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relating to the impugned order of the third respondent in Na.Ka.No. 177/A1/2024 dated 26.03.2024, quash the same as illegal and consequently, direct the respondents 1 to 3 to sanction incentive increment to the petitioner for acquiring M.A. (English), B.Ed. Degree qualification forthwith.

For Petitioner : Mr.I.Pinaygash

For respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard Mr.I.Pinaygash, learned counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents.

2. The petitioner has filed this petition seeking to quash the impugned order of the third respondent in Na.Ka.No.177/A1/2024 dated 26.03.2024 and consequently, direct the respondents 1 to 3 to sanction incentive increment to him for acquiring M.A. (English) and B.Ed. Degree qualification forthwith.



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3. The petitioner is working as a Secondary Grade Teacher at Panchayat Union Middle School, Vaniyampatti on and from 17.12.2012. After obtaining prior permission from the concerned educational authorities, he has completed M.A. (English) and B.Ed Degree in the years 2015 and 2017 respectively. Though the petitioner has acquired two higher qualifications, the petitioner was not sanctioned with any incentive increment. Hence, the petitioner made a representation in this regard on 04.01.2019. Since the same has not been considered, the petitioner has filed a writ petition in W.P.(MD)No.2938 of 2024 seeking a mandamus to sanction incentive increment. By an order dated 09.02.2024, this Court directed the respondents therein to consider the representation of the petitioner. In pursuance thereof, the third respondent passed the impugned order dated 26.03.2024 by rejecting the claim of the petitioner by citing the Government Orders in G.O.Ms.No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020 and G.O.Ms.No,116, Personnel and Administrative Reforms (FR-IV) Department, dated 15.10.2020. Hence, the petition.



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4. A similarly placed person has filed a writ petition seeking similar relief in W.P.(MD)No.9364 of 2024, in which this Court has dealt the above issue and observed as under.

5. Mr.T.Aswin Raja Simman, learned counsel appearing for the petitioner submitted that in the Government Order in G.O.Ms.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020, the scheme of sanction of advance increment for acquiring higher qualification in all Departments is dispensed with, due to a Policy decision of the Government. However, in Regulation 6 (vi) of the said Government Order, it is stated as under.

"6 (vi). The cases of Government servants who have acquired higher qualification prior to issue of this general order, and not sanctioned with advance increments be examined separately as per the previous orders issued, if any, by the administrative department concerned and with reference to the post specified in that order and if he is otherwise qualified, then the advance increment may be sanctioned by the administrative department concerned after obtaining concurrence of Finance Department. If no previous orders were issued by any of the department concerned, then they are not eligible for sanction of any advance increments for passing higher qualification irrespective of the post held / degree acquired."

6. So, according to the Government Order in G.O.Ms.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020, the persons



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who acquired higher qualification prior to the issuance of the said Government Order are still eligible to get the advance increment, provided, the proceedings are issued after getting concurrence from the Finance Department. It would also state that if there is no such orders passed by the Department with the concurrence of the Finance Department, then they are not eligible to get such advance increment, even though they had acquired higher qualification prior to the issuance of G.O.Ms.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020.

7. However, in the subsequent Government Order in G.O.Ms.116, Personnel and Administrative Reforms (FR-IV) Department, dated 15.10.2020, the following clarification has been issued in Serial No.3 of the Tabular Column.

S.No	Points raised for clarifications	Clarification Issued
3.	<i>Is there any cut-off date for sanctioning advance increment, if a Government servant recruited before 10.03.2020 and acquired the higher qualification or Departmental test (Account test for Sub-ordinate Officers Part-I) before 10.03.2020 and orders sanctioning advance increment was not issued either due to administrative reasons or belated claims by the individuals?</i>	<i>Yes. All such cases should be processed immediately either as per para 6(vi) of the Government Order 1st read above or as per the conditions in rulings (3) and (4) under FR 31-A in consultation with Personnel and Administrative Reforms (FR-IV) Department, and orders are to be issued before 31.03.2021.</i>

8. Therefore, the Government Order in G.O.Ms.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020, withdrawing



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the incentive increment has to be read along with the subsequent clarification given in the Government Order in G.O.Ms.116, Personnel and Administrative Reforms (FR-IV) Department, dated 15.10.2020, especially in the light of Regulation 6(vi) of G.O.Ms.37, Personnel and Administrative Reforms (FR-IV) Department, dated, 10.03.2020."

5. Even an another writ petition filed in W.P.(MD)No.9519 of 2014 was allowed by this Court on 18.04.2024 by referring the above said order in W.P.(MD)No.9364 of 2024 by, stating as follows.

"9. Coming to the case on hand, the petitioner was allowed to enjoy the incentive increment without any hurdle right from he acquired the qualification. While so, the impugned order has been passed on 26.03.2024, after giving notice to the petitioner calling for his explanation. When the petitioner has given his explanation stating that his case is covered under G.O.(Ms)No.37, dated 10.03.2020, the respondent ought to have sent the papers for formal financial concurrence. However, the respondent has cancelled the incentive increment thereby re-fixing the scale of the petitioner.

10. The respondent has not properly appreciated the facts and circumstances and has passed the order to the sheer detriment of the petitioner, knowing fully well that the impact of the earlier orders do not take away the privileges of incentive increment available to those persons, who got their qualification prior to the issuance of G.O.(Ms)No.37 dated 10.03.2020.

11. In view of the aforesaid discussion, the Writ Petition is allowed and the impugned order of the respondent in Na.Ka. No.61/A1/2024 dated 26.03.2024 is



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set aside. The respondent is directed to revoke the incentive increment of the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed."

6. In the instant case, though the petitioner has completed his higher qualifications in the years 2015 and 2017 respectively after obtaining prior permission from the Department and submitted a representation to the third respondent as early as on 04.01.2019, the same was kept pending for a long time without passing any orders. Only subsequent to the direction of this Court in a writ petition filed by the petitioner in W.P.(MD)No.2938 of 2024, the impugned rejection order was passed on 26.03.2024 by citing the reasons of the Government Orders in G.O.Ms.No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020 and G.O.Ms.No.116, Personnel and Administrative Reforms (FR-IV) Department, dated 15.10.2020. As observed in the above cited Judgments and in view of the clarification issued under G.O.Ms.No.116, Personnel and Administrative Reforms (FR-IV) Department, dated 15.10.2020, the petitioner is obviously



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eligible to get incentive increment and the third respondent without properly appreciating the facts and circumstances has passed the impugned order and hence, the same is liable to be set aside.

7. In view of the above observations, the writ petition is **disposed of** and the impugned order of the third respondent in Na.Ka.No. 177/A1/2024 dated 26.03.2024 is set aside. The third respondent is directed to consider the issue afresh in accordance with Regulation 6(vi) of G.O.Ms.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020 and also the subsequent clarification issued in G.O.Ms.No.116, Personnel and Administrative Reforms (FR-IV) Department, dated 15.10.2020 and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous is closed.

18.06.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order
mbi



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O/o.the District Educational Officer,
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R.N.MANJULA, J.

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