



W.P.(MD).No.13681 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.13681 of 2023

and

W.M.P(MD) Nos.11522 and 19060 of 2023

M.Pandiarani

... Petitioner

Vs.

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

2. The District Elementary Educational Officer,
Dindigul District,
Dindigul.

3. The Block Educational Officer – I,
Office of the Block Educational Officer,
Natham Post,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order passed by the third respondent in proceedings Na.Ka.No.427/A1/2023, dated 27.02.2023 and quash the same and consequently direct the respondents to sanction the all attendant and retirement benefits within a stipulated time may be fixed by this Court.



W.P.(MD).No.13681 of 2023

For Petitioner : Mr.M.Saravanakumar
For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

The instant writ petition has been filed by a retired Secondary Grade Teacher, challenging the order of re-fixation of pay as well as recovery.

2. The petitioner herein was appointed as a Secondary Grade Teacher on 08.12.2000. While the petitioner had joined the service, she had completed B.A (Economics) degree. After joining service, the petitioner had passed M.A(Economics) degree. For these two additional qualifications, two incentive increments were granted to the writ petitioner with effect from 01.01.2010 onwards. The petitioner was enjoying the higher pay scale till her voluntary retirement on 31.10.2022.

3. On 27.02.2023, the third respondent has passed an order to recover the incentive increments paid to the writ petitioner on the ground that the petitioner has acquired higher qualifications in the subject of Economics, which is no way connected with the teaching of Secondary Grade Teacher.



W.P.(MD).No.13681 of 2023

WEB COPY

Under the impugned order, a sum of Rs.8,44,516/- is sought to be recovered.

In the impugned order, the pay scale of the writ petitioner is sought to be revised in view of cancellation of two incentive increments for B.A. (Economics) degree and M.A.(Economics) degree. This order is under challenge in the present writ petition.

4. According to the learned counsel appearing for the writ petitioner, the incentive increments were conferred upon the writ petitioner in January 2010 and they were paid up to her retirement in October 2022. The order impugned in the writ petition having been passed after her retirement, is not legally sustainable. He further contended that apart from B.A.(Economics) Degree and M.A.(Economics) degree, the petitioner has also passed B.A.English and B.Ed., degree. However, the acquisition of the other two qualifications have not been taken into account by the authorities concerned. He further contended that the order of recovery is bad in the eye of law, in view of the judgments of the Hon'ble Supreme Court and the High Court.



W.P.(MD).No.13681 of 2023

WEB COPY

5. The learned counsel appearing for petitioner has further contended that after retirement, the question of revising the pay scale from the year 2010 is arbitrary in nature and therefore, sought to quash the orders.

6. Per contra, the learned Additional Government Pleader appearing for the respondents herein relying upon the judgments of the Hon'ble Division Bench of this Court in W.A.(MD)No.910 of 2022, dated 28.04.2022 and W.A(MD) No.918 of 2015, dated 17.12.2015 had contended that when a teacher had acquired higher qualifications which is no way connected with the subjects which they are teaching, the same is not going to be useful to the students and therefore, the authorities were right in recalling the order of granting incentive increments. He further contended that the petitioner is not falling under either “C” or “D” category and therefore, the recovery order passed by the third respondent herein may be sustained. Hence, he prayed for revising the pay scale of the writ petitioner, in view of the cancellation of the incentive increments already granted to the writ petitioner.

7. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.



W.P.(MD).No.13681 of 2023

WEB COPY

8. It is not in dispute that the petitioner while working as a Secondary Grade Teacher was conferred with two incentive increments with effect from 01.01.2010 for acquiring higher qualifications, namely, B.A(Economics) degree and M.A (Economics) degree. The Hon'ble Division Bench of this Court in W.A.(MD) No.910 of 2022, dated 24.08.2022, in paragraph No.13, has held as follows:

“13. The appellant submitted that the object of granting incentive increment is to lift the morale of the teachers. But the government states that the object of granting incentive increment is to encourage the Teachers to qualify themselves, so that their qualification would be beneficial to the students. In the present case the petitioner was working as Secondary Grade Teacher taking class for students from 1 to 5 standards and the qualification of M.Sc. Physics would not be beneficial to the students studying in the standards 1 to 5. Therefore, the Government is right in denying the incentive increment for higher qualifications when the higher qualification is not beneficial for the students studying in 1 to 5 standards.”



W.P.(MD).No.13681 of 2023

WEB COPY

9. In view of the Division Bench judgment, it is clear that if the teacher had acquired any higher qualifications which is not in any way relevant to the subject that are being taught by the concerned teacher, the question of granting incentive increments would not arise. Therefore, this Court does not find any illegality or irregularity in the order of cancellation of incentive increments that were granted to the writ petitioner.

10. The petitioner has been receiving the said incentive increments for more than 12 years. The petitioner had attained superannuation on 31.10.2022. In view of the judgment of the Hon'ble Supreme Court reported in *(2015) 4 SCC 334* in the case of *(State of Punjab and other Vs. Rafiq (white washer) and others)*, the order of recovery passed after retirement would cause prejudice to the writ petitioner and therefore, this Court is inclined to quash the impugned order in relation to the order of recovery alone. However, as far as the portion of the order which refixes the pay scale of the petitioner pursuant to the cancellation of the incentive increments are concerned, this Court is of the considered opinion that there is no illegality or infirmity in the said portion of the said order.



W.P.(MD).No.13681 of 2023

WEB COPY

11. In view of the above said deliberations, this Writ Petition stands partly allowed and the order of recovery is set aside. However, the authorities are at liberty to refix the pay scale based upon the impugned order. There shall be no order as to costs. Consequently connected Miscellaneous Petitions stand closed.

13.11.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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W.P.(MD).No.13681 of 2023

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W.P(MD)No.13681 of 2023

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