



W.P.(MD)No.15589 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.15589 of 2022

M.Abdul Razak

: Petitioner

Vs.

1.The Chief Educational Officer,
Tuticorin District.

2.The District Educational Officer,
Thiruchendur, Tuticorin District.

3.The Correspondent,
Central Higher Secondary School,
Kayalpatnam, Tuticorin District.

: Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to release the incentive increment to the petitioner for the higher qualification of M.A. and B.Ed as per the sanction order passed by the 2nd respondent dated 04.09.2013.

For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mr.N.Ramesh Arumugam

Government Advocate for R1 and R2

Mr.M.E.Elango for R3



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ORDER

The writ petition has been filed for a mandamus to the respondents to release the incentive increment to the petitioner for the higher qualification of M.A. and B.Ed as per the sanction order passed by the 2nd respondent dated 04.09.2013.

2. The case of the petitioner is that he passed Diploma in Teacher Education in the year 1991 and he was appointed as Secondary Grade Teacher in the third respondent school on 08.12.1992. He has obtained permission from the management to study B.Lit., and passed B.Lit., in the year 1997. Thereafter, he has obtained permission for M.A. and passed the same in the year 1999. He has also obtained permission for B.Ed., and passed the same in the year 2006. The higher qualifications were entered in his service register and since the petitioner is entitled to get incentive increment for the higher qualifications of M.A. and B.Ed., he made a request to the authorities to sanction two sets of incentive increments.



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3. The one post of P.G. Assistant became vacant in the third respondent school and since the petitioner is fully qualified and acquired higher qualification with the permission of the management, he was promoted as P.G. Assistant Tamil on 01.06.2007 and his promotion was also approved by the authorities. In this regard, the petitioner has made reminder to the authorities to sanction the incentive increment. After several requests, the request of the petitioner was ultimately considered and he was sanctioned with the incentive increments for his higher qualifications of M.A., and B.Ed., on 04.09.2013 and the same was properly entered in his service register and the second respondent also approved and signed in his service register. After sanctioning of the incentive increment, the same was not paid to the petitioner till date of filing of the writ petition. Aggrieved over the same, he has approached this Court by way of filing this writ petition.

4. The learned counsel for the petitioner would submit that the he had passed B.Lit., in the year 1997 and the same was entered in his service register along with his higher qualifications of M.A., and B.Ed after obtaining the permission from the authorities. As far as B.Ed. is concerned, the second respondent also signed in his service register.



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Therefore, there is no impediment to release the incentive increment to the petitioner.

5. The learned counsel for the petitioner would submit that he also sought information through Right to Information Act from the Audit Department and in the reply it is stated that there is no audit objection as on the date of audit and the service register of the petitioner was not placed before the audit.

6. The learned counsel for the petitioner further submit that having passed an order sanctioning incentive increment to the petitioner on 04.09.2013 based on the proposal forwarded by the third respondent School, the second respondent is bound to pay the incentive increment.

7. The learned Government Advocate appearing for the respondents 1 and 2 submitted that the order sanctioning incentive increment to the petitioner dated 04.09.2013 issued by the second respondent was cancelled by the third respondent School on 04.11.2017 and a counter-signature was also made by the District Educational Officer on 14.11.2017.



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8. The learned Government Advocate appearing for the respondents 1 and 2 further submitted that the pay bills have to be submitted by the third respondent School to the second respondent so as to enable them to settle the incentive increment to the petitioner.

9. A counter-affidavit has also filed by the respondents 1 and 2 on 15.09.2022, wherein it has been stated as follows:-

“I submit that incentive increment is not part of salary and the same is given by the government only under special scheme only to encourage teacher to acquire additional qualification which would help in imparting education to student. I submit that object of the incentive increment is only give incentive for the teachers who could get any promotions even after acquiring additional qualification. I submit that basic qualification for post of Post Graduate Assistant is B.Ed with Post Graduation degree in concerned subject. Accordingly writ petitioner have been granted promotion to the post of P.G. Assistant (Tamil) in the third respondent school, hence writ petitioner is not entitled for Incentive



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increment for the same qualification. I submit that when the petitioner is not entitled for said benefit, hence writ of mandamus cannot be issued. I submit that above writ petition is devoid of merits and deserves to be dismissed in limine. This respondent reserve his right to file additional counter affidavit as and when required.”

10. Heard the learned counsel for the parties and perused the material available on record.

11. The main contention of the petitioner is that since the order sanctioning incentive increment dated 04.09.2013 was passed by the second respondent/District Educational Officer and the same can be cancelled or revoked only by the second respondent and not by the third respondent School. The third respondent School has no jurisdiction to cancel the order passed by the authorities viz., the second respondent. Even in the counter-affidavit, nowhere it is mentioned that the order passed by the second respondent sanctioning the incentive increment to the petitioner on 04.09.2013 has been cancelled on 14.11.2017 but no such order has been communicated to the petitioner and it is only in the



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service book it is mentioned and the same was also countersigned by the District Educational Officer, Tiruchendur, Turicorin District (second respondent).

12. This Court is inclined to accept the aboe contention of the petitioner and it is the District Educational Officer, Tiruchendur, Turicorin District (second respondent) has alone got the power and authority to cancel the incentive increment granted to the petitioner on 04.09.2013.

13. The petitioner is entitled for the incentive increment for B.Ed., degree which was acquired by the petitioner after obtaining the permission from the authority to pursue the above said course.

14. The learned Government Advocate also submitted that if the pay bills of the petitioner are submitted to respondents 1 and 2, the incentive increment will be settled to the petitioner.

15. In view of the above factual matrix of the case, this Court is inclined to issue the following directions:-



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(i) The third respondent School is directed to submit the pay bills of the petitioner to the first and second respondents to settle the incentive increment to the petitioner and the same shall be submitted within a period of four (4) weeks from the date of receipt of a copy of this order;

(ii) The first and second respondents shall settle/pay the incentive increment to the petitioner for acquiring the qualification of M.A and B.Ed. Degree as per the sanction order dated 04.09.2013 within a period of four (4) weeks thereof;

(iii) The entire exercise shall be completed within a period of eight (8) weeks as stipulated above.



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16. In view of the above, the writ petition stands allowed of
with the above directions. No costs.

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Index : Yes / No

Internet : Yes / No

PKN

To

- 1.The Chief Educational Officer,
Tuticorin District.
- 2.The District Educational Officer,
Thiruchendur, Tuticorin District.



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J.SATHYA NARAYANA PRASAD, J.

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