



W.A(MD)No.207 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2024

CORAM:

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE G.ILANGO VAN**

W.A(MD)No.207 of 2024

D.Beulah Rajaselvi

... Appellant

-VS-

1. The District Educational Officer,
Thoothukudi,
Thoothukudi District.

2. The District Educational Officer,
Tiruchendur,
Thoothukudi District.

3. The Correspondent,
St. John's Girls' Higher Secondary School,
Nazareth,
Thoothukudi District.

... Respondents

PRAYER: Appeal filed under Clause 15 of Letters patent, against the order dated 23.12.2022 passed in WP(MD)No.6650 of 2022 on the file of this Court.

For Appellant : Mr.T.A.Ebenezer
For R1 & R2 : Mr.D.Sadiq Raja
Additional Government Pleader



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J U D G M E N T

[Judgment of the Court was made by The Hon'ble CHIEF JUSTICE]

We have heard Mr.T.A.Ebenezer, learned counsel appearing for the appellant and Mr.D.Sadiq Raja, learned Additional Government Pleader appearing for the respondents 1 and 2.

2. The appellant/writ petitioner had filed writ petition against the order passed by the 1st respondent rejecting her request to grant incentive increment on the ground that the appellant has completed M.A (Tamil) without obtaining prior permission.

3. The learned Single Judge dismissed the said writ petition. Aggrieved thereby, the present appeal is filed.

4. Learned Additional Government Pleader appearing for the respondents 1 and 2 submits that in the normal course, the appellant would have been entitled for the incentive increment on acquiring the higher qualification of M.A(Tamil). However, as the said qualification has been acquired without the prior permission of the authority, the appellant is not



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entitled for the incentive increment. Reliance is placed on G.O.Ms.No.944, Education (D2) Department, dated 29.07.1989.

5. There is no dispute that the appellant has acquired higher qualification of M.A(Tamil) and in the normal course, she would be entitled for the incentive increment as per the policy of the Government. The only contention of the official respondents appears to be that the said higher qualification has been acquired without the prior permission of the authority.

6. G.O.Ms.No.944, Education (D2) Department, dated 29.07.1989 relied by the official respondents does not provide for the consequences. The said G.O does not dis-entitle an employee of the incentive increment if the higher qualification is acquired without obtaining prior permission. The G.O only reads about the delegation of the power to the authority to grant permission to join the correspondence course and part time course including Ph.D courses. The consequence is not provided in the said G.O. The G.O does not debar a person from incentive increment upon acquiring higher qualification. The incentive increment is provided on acquiring higher qualification as per G.O.No.42, Education Department, dated 10.01.1969. The said G.O did not lay down any condition of prior permission to acquire



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higher qualification nor G.O.Ms.No.944, Education (D2) Department, dated 29.07.1989 relied by the official respondents would dis-entitle the appellant of incentive increment. Similar aspects were also considered by the Division Bench in Writ Appeal bearing W.A(MD)No.822 of 2021. In the said writ appeal, the disciplinary proceedings were initiated against the employee therein for not taking permission before acquiring higher qualification. The disciplinary proceedings were set aside.

7. The learned Single Judge in W.P(MD)No.14085 of 2015 under judgment and order dated 26.11.2020 has observed that G.O.Ms.No.944, Education (D2) Department, dated 29.07.1989 relied by the official respondents is in gross violation of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and the Rules made thereunder. It has further been observed that under G.O.Ms.No.101, School Education (Budget-1), dated 18.05.2018, the appointing authority i.e., the School Management is given the power to grant permission for acquiring higher qualification. In the said case, though the permission was not obtained from the authority concerned, the learned Single Judge directed to grant incentive increment.



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8. In view of the aforesaid conspectus of the matter, the impugned judgment of the learned Single Judge and the impugned order passed by the authority are quashed and set aside. In case there is no other impediment, then the respondents shall not refuse to grant incentive increment to the appellant on acquisition of higher qualification only on the ground that prior permission was not obtained for acquiring higher qualification.

9. In the light of that, the Writ Appeal stands allowed. No costs.

[S.V.G., C.J.]

[G.I., J.]

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Index : Yes / No
Neutral Citation : Yes / No
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To:

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