



W.P.(MD)No.16714 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.16714 of 2024 &
W.M.P.(MD)No.14463 of 2024

R.Gopal

... Petitioner

vs.

1.State of Tamil Nadu,
Represented by its Chief Secretary to Government,
Human Resources Management (FR-IV) Department,
Previously know as Personnel and
Administrative Reforms (FR-IV) Department,
Fort St.George,
Chennai - 600 009.

2.State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Department of School Education,
Fort St.George,
Chennai - 600 009.

3.The Director of Elementary Education,
DPI Campus,
Chennai - 600 006.

... 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
pertaining to the Impugned Government Order in G.O.Ms.No.37



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Personnel and Administrative Reforms (FR-IV) Department dated 10.03.2020 in so far as the Clause 6(vi) is concerned and the Consequential impugned order in G.O.Ms.No.95 Human Resource Management (FR-IV) Department dated 26.10.2023 on the file of the Respondent No.1 and quash the same as illegal and consequently for a direction to the respondents to grant incentive increment to the petitioner for acquiring higher qualification in M.A. English Degree and revise the scale of pay along with arrears and other monetary benefits within a stipulated time.

For Petitioner : Mr.T.Aswin Raja Simman
For Respondents : Mr.R.Bhaskaran
Additional Advocate General
Assisted by
Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard Mr.T.Aswin Raja Simman, learned counsel appearing for the petitioner and Mr.R.Bhaskaran, learned Additional Advocate General assisted by Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents.



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2. The petitioner has filed this writ petition seeking to quash the Government Order in G.O.Ms.No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020 in so far as clause 6(vi) and the Government order in G.O.Ms.No.95, Human Resource Management (FR-IV) Department, dated 26.10.2023 on the file of the first respondent and consequently direct the respondents to grant incentive increment to him for acquiring higher qualification in M.A. English Degree and revise the scale of pay along with arrears and other monetary benefits within a stipulated time.

3. The petitioner is a Secondary Grade Teacher and he has secured B.Ed and M.A. English which are higher qualifications for his post. But, the petitioner was not given with any incentive increment. As the maximum limit fixed in the Government Order in G.O.Ms.No.1023, Education, Science and Technology Department, dated 09.12.1993 is for two increments, the petitioner claims that he is entitled for two increments. When the petitioner had made an application for grant of incentive increment, his application was kept pending in view of clause



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6(vi) of the Government Order in G.O.Ms.No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020 unmindful of the clarification given in the Government Order in G.O.Ms.No,116, Personnel and Administrative Reforms (FR-IV) Department, dated 15.10.2020 that the persons who have completed higher qualifications before 10.03.2020 are entitled for incentive increments. Hence, the petition.

4. In the latest Government Order in G.O.Ms.No.95, Human Resources Management (FR-IV) Department, dated 26.10.2023, the incentive increment is reduced to a grant of lump sum amount for those employees whose increment is pending consideration and for those employees who acquired higher qualification after 10.03.2020.

5. 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



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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 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.



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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.	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?	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.

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

6. 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.



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"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 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."

7. In the instant case, the petitioner has completed his higher qualification in the year 2016 after obtaining prior permission from the Department and submitted a representation to the third respondent in this regard. As observed in the above cited Judgments and in view of the clarification issued under G.O.Ms.No.116, Personnel and Administrative



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Reforms (FR-IV) Department, dated 15.10.2020, the petitioner is obviously eligible to get incentive increment.

8. In view of the above observations, the writ petition is **disposed of** and the respondents are directed to consider the representation of the petitioner dated 10.01.2023 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.

24.07.2024

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

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- 1.The Chief Secretary to Government,
Human Resources Management (FR-IV) Department,
Previously know as Personnel and
Administrative Reforms (FR-IV) Department,
Fort St.George,
Chennai - 600 009.
- 2.State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Department of School Education,
Fort St.George,
Chennai - 600 009.
- 3.The Director of Elementary Education,
DPI Campus,
Chennai - 600 006.



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R.N.MANJULA, J.

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