



W.P.(MD) No.17994 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.17994 of 2020

and

W.M.P.(MD) Nos.15004 and 15006 of 2020

S.Arockiam

... Petitioner

Vs.

1.The Joint Director of School Education (Personnel),
Office of the Director of School Education,
College Road, Chennai.

2.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in O.Mu.No.3994-A1/2020, dated 15.09.2020 and consequently directing the 1st respondent to grant post approval for the M.Phil qualification and pay the Selection Grade Salary from 06.08.2020.



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For Petitioner : Mr.A.Srinivas
For Respondents : Mr.V.Om Prakash
Government Advocate

ORDER

The petitioner herein, who was initially appointed as B.T. Assistant at Government High School, Periya Kovilangulam, Tirunelveli District, made a request for permission to pursue M.Phil., Course and accordingly, the Head Master of the concerned School granted permission by proceedings dated 16.03.2007 and thereafter, the petitioner was promoted to the post of P.G. Assistant on 02.08.2010 and subsequently, the petitioner acquired M.Phil., qualification in the year 2016. Thereafter, the petitioner was awarded the incentive increment on acquiring higher qualification of M.Phil. While so, the petitioner had completed 10 years of service in the post of P.G. Assistant and accordingly, proposal was submitted to the 2nd respondent by the Head Master of the concerned school for award of Selection Grade pay. However, the said proposal was returned by the 2nd respondent on the ground that the petitioner was granted incentive increment, though he acquired the M.Phil qualification



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without obtaining prior permission to pursue such course. At that stage, the Headmaster of the concerned school through letter dated 02.09.2020 submitted a proposal for grant of post permission for acquiring M.Phil., qualification. Such proposal submitted by the Headmaster concerned was returned by the 2nd respondent by passing the impugned proceedings bearing O.Mu.No.3994-A1/2020, dated 15.09.2020 stating that there are no rules permitting such post permission. Aggrieved by the same, the petitioner approached this Court by filing the present writ petition.

2. It is contended by the learned counsel for the petitioner that there is no necessity of obtaining prior approval from the Head of the Department viz., Director of School Education and it is sufficient if permission is obtained from the Headmaster and the petitioner has in fact, obtained such permission from the Headmaster of the School concerned and therefore, the respondents are not entitled to raise any objection on the incentive increment granted in favour of the petitioner on acquiring the qualification of M.Phil. He also placed reliance on a decision of a learned Division Bench of this Court in W.P.(MD) No.1124 of 2023, wherein the learned Division Bench



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having taken note of various decisions passed by this Court, held as under:

“3.This Court find that the issue is no-more resintegra in view of the several judgments on this issue holding that the claim of teachers for incentive increment cannot be rejected on the ground that the concerned teacher had not obtained prior permission of the authorities for undergoing higher education. Since the issue has been settled by precedents, this Court is unable to countenance the arguments advanced by the learned counsel for the appellants. It is true that there are several Government Order which have insisted the requirement of permission of the educational authorities for a teacher to undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher qualification is to encourage the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service will have to obtain prior permission as per the Government Orders . Further it is to be noted that acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity



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and that will not entitle the respondents to reject the benefit to the teachers.

4.Considering the overall policy of the Government,there is no reason to take a different view as expressed by the learned Single Judge. The decision relied upon by the learned Single Judge in the subject-matter in issue has been subsequently affirmed by the learned Division Bench of this Court. Hence this Court finds no merit in the Writ Appeal and the same is liable to be dismissed.”

3. From the above, it is evident that mere non-obtaining of a prior permission for acquiring higher qualification will not disentitle the employees from claiming the benefit of incentive increment, which is otherwise provided under various Government Orders.

4. In the light of the above, mere non-obtaining of prior approval from the Head of the Department viz., Director of School Education for acquiring M.Phil., qualification by the petitioner is not a ground to raise any objection of whatsoever against grant of such incentive increments in favour



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of the petitioner. Hence, the impugned order rejecting the post approval is of no consequence and the incentive increment that was awarded in favour of the petitioner on acquiring M.Phil., qualification is valid and the respondents are not entitled to raise any objection of whatsoever nature against such grant of incentive increments.

5. Then coming to the claim of the petitioner for grant of Selection Grade is concerned, the same is stated to have been rejected only on the ground that the petitioner was granted incentive increment on acquiring M.Phil., qualification without obtaining prior approval from the Head of the Department. Now it is settled that the incentive increment that was awarded in favour of the petitioner on acquiring M.Phil., qualification though without obtaining prior approval from the Head of the Department is valid, the respondents are not entitled to raise any objection on that ground.

6. Accordingly, this Writ petition is disposed of by duly granting liberty to the Headmaster of the School, where the petitioner is working, for submitting fresh proposal for grant of Selection Grade to the petitioner on



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completion of ten years in the post of P.G. Assistant and on submission of such proposal, the 2nd respondent is directed to consider the said proposal, in the light of the observations made hereinabove and without raising any objection on the incentive increment granted in favour of the petitioner on acquiring the higher qualification of M.Phil., and pass appropriate orders as expeditiously as possible, at any rate, within a period of two months from the date of submission of such proposal by the concerned school. No costs. Consequently, connected miscellaneous petitions are closed.

19.03.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes

ABR

To

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Office of the Director of School Education,
College Road, Chennai.
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MUMMINENI SUDHEER KUMAR, J.

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