



W.P.(MD)No.17359 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.17359 of 2024 &
W.M.P.(MD)Nos.14919 & 14921 of 2024

C.Selvakumar

... Petitioner

VS.

1.The Chief Education Officer,
Chief Education Office,
Sivagangai, Sivagangai District

2.The Headmaster,
Government Higher Secondary School,
T.Pudhupatti, Thirupathur Taluk,
Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining the impugned proceeding of the 2nd respondent in Na.Ka.No. 102/2024 dated 15.07.2024 and quash the same consequently permit the petitioner to receive the incentives for the M.Phil. Summer Sequential Programme.

For Petitioner : Mr.M.Ramu

For Respondents : Mr.T.Amjadkhan
Government Advocate



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ORDER

Heard Mr.M.Ramu, learned counsel appearing for the petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents.

2. The petitioner has filed this writ petition seeking to quash the impugned order of the second respondent in Na.Ka.No.102/2024 dated 15.07.2024 and permit him to receive incentive for the higher qualification acquired in M.Phil. through Summer Sequential Programme offered by Alagappa University.

3. The petitioner is working as B.T. Assistant (Mathematics) in the second respondent School. After obtaining due permission the petitioner completed M.Phil. Summer Sequential Programme in Karaikudi Alagappa University during the academic year 2017-18. In pursuance thereof, incentive increment was also granted to him. However, the second respondent vide the impugned proceedings dated 15.07.2024 has cancelled the incentive increment granted to him and re-fix his salary by



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stating that as per the Government Order in G.O.Ms.91, Higher Education Department dated 03.04.2009, after 2006-07, M.Phil Degree obtained through part time education is ineligible and Alagappa University is not recognized by the Higher Education Department.

4. The same issue has already been dealt by this Court in W.P. (MD)No.9195 of 2024 dated 15.04.2024, wherein the following order has been passed.

4. The petitioner is working as a graduate teacher in Panchayat Union Middle Secondary School, A.Venlangudi, Karaikudi Taluk, Sivagangai District. The third respondent has issued a proceedings, dated 27.03.2024 alleging that the petitioner has got the incentive increment for higher qualification in M.Phil Degree offered by Karaikudi Alagappa University following choice based credit System during Summer Sequential period, even though the Degree is not recognised by the State and Central Governments. The above issue is dealt in W.A.(MD)No.259 of 2023 dated 07.12.2023, in which, a direction was given to the Government to consider the above issue and pass orders. The above order calling for the Government to take a decision in the above Writ Appeal is extracted as under :

“14. In view of the facts and circumstances, we pass the following orders:

(i) The common order, dated 27.02.2023, passed in W.P.(MD) Nos.66, 67, 10386, 11609, 11720, 13879, 15666, 18235, 18236, 18237, 18238, 18239,



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18240, 18241, 18242, 19438, 19718, 21691 & 21692 of 2022 and 2039, 2042 of 2023, are set aside to the limited extent of reconsidering the entire issues afresh.

(ii) The matter is remanded back to the Government for taking decisions on the equivalence and the validity of the M.Phil., Degree obtained by the writ petitioners / teachers under the Summer Sequential Programmes conducted by Alagappa University and to take a decision, whether the said Degree is to be considered for the purpose of grant of incentive increment or not.

(iii) The Government is expected to decide the issues as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this Judgment.

(iv) Accordingly, the writ appeals are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.”

5. Pursuant to the above order, the issue is pending with the Government for taking a decision. Now, the grievance of the petitioner is that even before the matter was disposed of by the Government, the impugned notice has been given calling for explanation for recovering the amount towards the incentive enjoyed by the petitioner so far.

6. When the Government itself has not taken any decision, the petitioner may not be able to give any Government Order or document to prove that their entitlement to receive the incentive increment is supported by the Government Orders themselves. However, it is possible for the petitioner to place a request to the third respondent to extend the time for giving explanation till the Government takes a decision in the matter and pass orders thereon.

7. In the event of such a request is made by the petitioner, the third respondent shall consider the same and keep the matter in abeyance until the Government passes an order consequent to the directions of this Court in W.A.(MD)No.259



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of 2023 etc., batch dated 07.12.2023.

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8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed."

5. However, in the present case, the impugned order has been passed even without issuing any show cause notice to the petitioner.

6. In view of the same, the writ petition is **disposed of** and the impugned order of the second respondent in Na.Ka.No.102/2024 dated 15.07.2024 is quashed and the second respondent is directed to issue a fresh show cause notice to the petitioner, depending upon the decision of the Government as per the direction issued in W.A.(MD)No.259 of 2023 and batch dated 07.12.2023. No costs. Consequently, connected Miscellaneous Petitions are closed.

30.07.2024

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

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To
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- 1.The Joint Director,
Office of Director of Animal Husbandry,
Animal Husbandry and Medical Services,
Chennai - 35.
- 2.The Joint Director (Zonal)
Department of Animal Husbandry,
Madurai.
- 3.The Assistant Director,
Department of Animal Husbandry,
Madurai.



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R.N.MANJULA, J.

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