



WP(MD) No.17710 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.02.2024

CORAM

THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P(MD)No.18649 of 2020
and W.M.P.(MD)No.15611 of 2020

Senkathir

... Petitioner

Vs.

1.The Regional Accountants Officer, (Audit),
School Education Department,
Thallakulam, Madurai - 2.

2.The Head Master,
Arasan Shanmuganar Government
Higher Secondary School,
Solavanthan, Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari by calling the proceedings of the 1st Respondent made in Na.Ka.No.3699/A10/2018 dated 25-10-2018 and consequential proceedings of the 2nd respondent made in Na.Ka.No. 124/2020-21 dated 30.11.2020.

For Petitioner : Mr.M.Suresh Kumar

For Respondents : Mr.V.Om.Prakash,
Government Advocate..



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ORDER

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The issue that is involved in this Writ Petition is as to whether the impugned proceedings issued by the respondents based upon an audit objection to recover the amounts paid to the petitioner towards incentive increment on acquiring of higher qualification in physical education is in accordance with law or not?

2. While the petitioner was working as Physical Education Director, he was granted incentive increments based upon the Government Orders vide G.O.Ms.No.95, Education department dated 21.01.1980 and G.O.Ms.No.324, Education Department, dated 25.04.1995 with effect from 03.06.2002. However, an audit objection was taken on the ground that the higher qualifications were prescribed for the first time through G.O.Ms.No. 177, Education Department, dated 13.10.2016 and as such the increments that were released to the petitioner with effect from 03.06.2022 are sought to be recovered. The Government Orders, under which the petitioner was granted incentive increments, themselves provided for grant of increments on acquiring higher qualification and in respect of the petitioner, the requirement is that the higher qualification should be in physical education.



There is no dispute that the petitioner acquired such additional qualification and only on acquiring the additional qualification, the petitioner was granted incentive increments in the year 2002. Merely because the Government prescribed certain qualifications in the year 2016 by issuing G.O.Ms.No.177, Education Department, dated 13.10.2016, it does not mean that the eligibility of the petitioner to draw incentive increments, pursuant to the previous Government orders, would be lost or would become illegal.

3. In addition to the above, the very same issue has been considered by the learned single Judge of this Court in W.P.(MD)No.1771 of 2021, dated 10.01.2024, by following the previous decisions of this Court in W.P. (MD)No.290 of 2018 and all the contentions that were raised in the counter affidavit filed by the respondents in the said Writ Petition were considered and were negated by the learned single judge.

4. In the light of the above, following the order passed by this Court in W.P.(MD)No.1771 of 2021, the impugned order is quashed and the entire amount that was recovered from the petitioner is liable to be refunded to the petitioner. Accordingly, this Writ Petition is allowed setting aside the



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impugned order with a further direction to refund the entire amount recovered under the impugned order to the petitioner within a period of two months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

20.02.2024

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

vsm



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To
The Regional Accountants Officer, (Audit),
School Education Department,
Thallakulam, Madurai - 2.



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MUMMINENI SUDHEER KUMAR, J.

vsm

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