



W.P.(MD) No.19093 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2024

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THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)No.19093 of 2020

A.Govindasamy

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. By its Secretary,
Department of School Education,
Fort St. George, Chennai – 600 009.
- 2.The Director of School Education,
College Road, Nungambakkam,
Chennai – 600 006.
- 3.The Director of Elementary Education,
College Road, Nungambakkam,
Chennai – 600 006.
- 4.The Chief Educational Officer,
Thanjavur, Thanjavur District.
- 5.The District Educational Officer,
Pattukottai, Thanjavur District.
- 6.The Assistant Elementary Educational Officer,
Peravurani @ Avanam,
Thanjavur District.



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7. The Inspector of Police,
Department of Vigilance and Anti Corruption,
Thanjavur.

8. Ravichandran,
Block Educational Officer,
Peravurani @ Avanam,
Thanjavur District.

9. Prabakaran
The Superintendant,
Block Educational Office,
Peravurani @ Avanam,
Thanjavur District.

10. Venkatesh
Junior Assistant,
Block Educational Office,
Peravurani @ Avanam,
Thanjavur District.

11. Ganesan,
Junior Assistant,
Block Educational Office,
Peravurani @ Avanam,
Thanjavur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1,2,4,5 and 7 to take necessary departmental action on the respondents 8 to 11 for the act of prolonging and demanding bribe amount for issuance of second incentive increment order and further to direct the respondents herein to sanction the second incentive increment to the petitioner forthwith for possession of



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additional Higher Qualification for M.A.(Tamil) decree, by considering the petitioner's representation dated 19.11.2020 within a time stipulated by this Court.

For Petitioner : Mr.K.C.Maniyarasu
For Respondents : Mr.V.Om Prakash
Government Advocate for R1 to 7
: No appearance for R8 to 11

ORDER

The petitioner herein while working as Head Master in Panchayat Union Primary School, Eevhanvidhuthi, Peravurani, Thanjavur District, acquired additional qualification, namely, M.A.(Tamil) through correspondence and made a request for grant of second incentive increment in the month of September – 2017. The said application submitted by the petitioner was considered by the respondents and through proceedings Na.Ka.No.509/A1/2019, dated 19.12.2019, the petitioner was awarded second incentive increment of Rs.740/- with effect from 01.07.2017 and accordingly, his pay was fixed through the said proceedings. However, the grievance of the petitioner is that the said proceedings, dated 19.12.2019 was not given effect to and as on date, no arrears are paid.



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2. According to the learned counsel for the petitioner, the reason for not giving additional incentive to the said proceedings dated 19.12.2019 is that the petitioner refused to pay the bribe amount as demanded by the respondents herein.

3. In response to the notice ordered by this Court, the respondent No.5 filed counter affidavit, contending that the very scheme of granting second incentive increment was withdrawn by the Government by issuing G.O.(Ms.) No.37, Personnel and Administration Reforms (FR-IV) Department, dated 10.03.2020 and therefore, the said proceedings dated 19.12.2019 was not given effect to. It is also further contended by the learned Government Advocate that subsequent to G.O.(Ms.)No.37, the Government also issued G.O.95, Human Resources Management (FR-IV) Department, dated 26.10.2023, modification orders were issued modifying G.O.(Ms.)No.37, dated 10.03.2020, providing for one time lumpsum payment towards incentives for the additional qualification acquired by the employees and therefore, the petitioner is entitled for consideration of his case for grant of one time lump sum payment and not entitled for incentive increment awarded



through proceedings dated 19.12.2019. This Court has thoroughly gone through the G.O.(Ms.)No.37 and G.O.(Ms.)No.97 dated 10.03.2020 and 26.10.2023 respectively. G.O.(Ms.)No.37 only provides for cancelling / dispensing with the scheme of sanction of incentive increment on acquiring higher qualification and for passing Account test for Sub-ordinate Officers Part-I etc., and certain other directions were issued under the said G.O. As seen from G.O.(Ms.)No.95, dated 26.10.2023, G.O.(Ms.)No.37 and G.O. (Ms.)No.95 would apply only with effect from 10.03.2020 and the said G.O, has no retrospective effect in this regard. It would appropriate to extract the relevant paragraph from G.O.No.95, dated 26.10.2023 :

“7.Now, it has come to the notice of the Government that substantial number of claims are pending from candidates with higher educational qualifications. Hence, to expeditiously process and bring clarity to the scheme of granting incentive, in partial modification of the orders issued in the Government Order second and third read above and clarifications issued in the Government Letter fourth read above, the cut-off-date for sanction of advance increments for having acquired higher educational qualifications ended and the new scheme of sanction of lumpsum amount is ordered to take effect from 10.03.2020.



Thus, the clarification issued in Government Order second read above and the Government Letter fourth read above are harmonized to ensure that, all pending applications as on 10.03.2020 and claims made subsequently for sanction of benefits for having acquired higher educational qualifications shall be disposed as per this new scheme of granting lumpsum incentives only and not the earlier scheme of granting increments in salary. This principle would ensure expeditious disposal of all pending claims, and also maintain parity and equal treatment between the claims pending as on date and for the persons acquiring higher educational qualifications in future also”

4. Thus the contention of the respondents that in view of the issuance of G.O.(Ms.)No.35 and G.O.(Ms.)No.95, dated 10.03.2020 and 26.10.2023 respectively, the proceedings dated 19.12.2019 is not given effect to does not stand to any scrutiny. The G.O.(Ms.)No.37 is not given retrospective effect and the persons, who were already granted and drawing incentive increment prior to issuance of the G.O.(Ms.)No.37, dated 20.03.2020 have been drawing the same. Hence, refusal to extend similar benefit of incentive increment to the person who acquired additional qualification prior to



issuance of G.O.(Ms.)No.37 would be arbitrary and such an action would amount to treating the equal unequally in violation of the Articles 14 and 16 of the Constitution of India.

5. As already noted above, the petitioner was already sanctioned the second additional increment through proceedings dated 19.12.2019, but the same was not given effect by the respondents. As the defence of the respondents that in view of the G.O.(Ms.)No.37 and G.O.(Ms.)No.95, the impugned proceedings cannot be given effect to is found totally unsustainable, the respondents are bound to give effect to the proceedings dated 19.12.2019.

6. In the light of the above, the respondents are bound to give effect to the proceedings, dated 19.12.2019 and pay arrears. Accordingly, this Writ Petition is allowed, directing the respondents to release the entire arrears due and payable to the petitioner in terms of proceedings dated 19.12.2019 as expeditiously as possible at any rate within a period of three months from the date of receipt of copy of this order.



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7. The writ petition is allowed to the extend as indicated above. There shall be no order as to costs.

NCC : Yes/No

11.03.2024

Index : Yes

Internet : Yes

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To

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