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W.P.(MD)Nos.18415 to 18417 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)Nos.18415 to 18417 of 2024

and

W.M.P.(MD)Nos.15666, 15678 and 15667 of 2024

R.Stella	... Petitioner in W.P.(MD)No.18415/2024
S.Suresh	... Petitioner in W.P.(MD)No.18416/2024
A.Balamurugan	... Petitioner in W.P.(MD)No.18417/2024

Vs.

- 1.State of Tamil Nadu,
Represented by its Chief Secretary to Government,
Human Resources Management (FR-IV) Department,
Previously Known as Personnel and Administrative
Reforms (FR-IV) Department,
Fort St.George, Chennai-9.
- 2.State of Tamil Nadu,
Represented by its Principal Secretary to the Government,
Department of School Education,
Fort. St. George, Chennai 9.
- 3.The Director of School Education,
DPI Campus, Chennai 6.

... Respondents

COMMON PRAYER:Writ Petitions filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Government Order in G.O.Ms.No.37 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 Resources



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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, directing the Respondents to grant incentive increment to the Petitioners for acquiring higher qualification of M.Phil Degree and revise the scale of pay along with arrears and other monetary benefits within the time period stipulated by this Court.

In all petitions:

For Petitioner : Mr.T.Aswin Raja Simman

For Respondents : Mr.M.Siddharthan

Additional Government Pleader

COMMON ORDER

The petitioners challenging G.O.Ms.No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020 insofar as the Clause 6(vi) is concerned and the Consequential Impugned Order in G.O.Ms.No.95 Human Resources Management (FR-IV) Department, dated 26.10.2023 on the file of the first Respondent as illegal and to direct the Respondents to grant incentive increment to the Petitioner for acquiring higher qualification of M.Phil Degree and revise the scale of pay along with arrears and other monetary benefits within the time period stipulated by this Court, have filed these writ petitions.

2.The petitioners are working as PG Assistant. Though they have acquired their higher qualifications and are eligible to get an incentive increment for acquiring such qualification, they have not been granted with the same in accordance with the Rules in force.



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3. Since the subject matter was already decided in the earlier batch of Writ Petitions of the Co-ordinate Bench, this Court is not inclined to deal with the validity of G.O.(Ms)No.95 dated 26.10.2023 once again. If the petitioners are still aggrieved, they can seek permission of the Court and file Writ Appeals challenging the orders passed in W.P.(MD)No.1605 of 2024 batch. However, the further arguments that even without touching upon G.O.(Ms)No.95 dated 26.10.2023, the petitioners are entitled to get their relief in terms of G.O. (Ms)No.37, Personal and Administrative Reforms (FR-IV) Department, dated 10.03.2020, is a matter to be considered. Admittedly, G.O.(Ms)No.37 dated 10.03.2020 has got reservation under Clause 6 (vi).

4. In fact, the very same issue came up for consideration in the earlier Writ Appeal in W.A.(MD)No.975 of 2024 dated 12.06.2024, where the Division Bench of this Court has held as under:

“5. Heard the learned Additional Government Pleader appearing for the appellants and perused the materials available on record.

6. The Government in order to encourage the Teachers to acquire themselves with higher qualifications, so that the students would get benefited, issued Government Order providing incentive increments to the Teachers, who acquired higher qualification, of-course, after getting necessary permission from the authorities. Wherever Teachers had acquired higher qualification, in all such cases, the Government



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had provided incentive increments, as per the scheme introduced by the Government. Later, there had been several litigations in respect of payment of incentive increment and by orders passed by the Court, it was settled that a Teacher, whoever acquires the higher qualification, will only be entitled for two incentive increments in their career, even though they acquired further higher qualification.

7. Later, the Government took a policy decision to cancel the scheme of incentive increment and had issued G.O.(Ms)No.37, dated 10.03.2020, cancelling the scheme of sanctioning of advance increment in all the departments. In view of G.O.(Ms)No.37, the grant of advance increment for acquiring higher qualification has been dispensed with, but, however, the issue in respect of Teachers, who had acquired higher qualification prior to the issuance of G.O.(Ms)No.37, dated 10.03.2020, has been dealt with in Clause~6(vi) of the Government Order, which is extracted hereunder for ease reference:

“6...

I....

VI.The case 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 posts 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, they they are not eligible for sanction of any advance increments for passing higher qualification irrespective of the post held/degrees acquired.”



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8. *It is the contention of the learned Additional Government Pleader that in view of Clause 6(vi), which says that if no previous order was issued by any of the department concerned, then they are not eligible for any advance increment, will mean that only in cases, where an order has been passed for awarding incentive increment prior to the Government Order, they are entitled for the same and in cases, where, such orders has not been passed, they are not entitled. The argument is liable to the outrightly rejected for the simple reason that G.O.(Ms)No. 37, even though had been issued cancelling the scheme of advance increment, by incorporating Clause 6(vi) in the Government order, wherever, the Teachers, who had acquired higher qualification, ofcourse, after obtaining necessary permission, had acquired such qualification, prior to the issuance of Government Order, are entitled for the award of incentive increment.*

9. *G.O(Ms)No.37 does not operate retrospectively and the purposive interpretation of Clause 6(vi) in the Government Order can only be that the Teachers, who had all acquired the higher qualification prior to the issuance of the Government Order and if otherwise qualified are eligible for sanction of the incentive increment. If the interpretation made by the learned Additional Government Pleader is to be accepted, then the very object of the inclusion of clause 6(vi) in the Government Order becomes redundant. As such, we have no hesitation to hold that the Teachers, who, after obtaining necessary permission from the authorities, had acquired higher qualification, ie., wherever the degrees had been awarded prior to issuance of G.O.(Ms)No.37, dated 10.03.2020, are entitled for advance increment for the higher qualification, if it is within the limit of two incentive increments in their career.”*



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5. Since the petitioners have also raised a similar relief and their application for getting the incentive increment for higher qualification was pending even before G.O.(Ms)No.37 dated 10.03.2020 came into being, the petitioners are entitled to the benefit of Clause 6(vi) of the G.O.(Ms)No.37 dated 10.03.2020.

6. In view of the above stated reasons, these Writ Petitions are partly allowed by granting a direction to the respondents to consider the petitioners' application for claiming incentive increment in the light of G.O.Ms.No.37, dated 10.03.2020 especially under Clause 6(vi) and also in the line of the observation made in W.A.(MD)No.975 of 2024 dated 12.06.2024 and pass orders within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

02.08.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
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- To:
- 1.The Chief Secretary to Government,
Human Resources Management (FR-IV) Department,
Previously Known as Personnel and Administrative
Reforms (FR-IV) Department,
Fort St.George, Chennai-9.
 - 2.The Principal Secretary to the Government,
Department of School Education,
Fort. St. George, Chennai 9.
 - 3.The Director of School Education,
DPI Campus, Chennai 6.



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R.N.MANJULA, J.

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