



W.A.(MD)No.334 & 358 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 26.02.2024

PRONOUNCED ON : 15.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A(MD)Nos.334 & 358 of 2021
and
C.M.P.(MD)Nos.1143 and 1236 of 2021

1.The District Elementary Educational Officer,
Karur, Karur District.

2.The Additional Assistant,
Elementary Educational Officer,
K.Paramathi Union,
Karur District.

...Appellants in both petitions

Vs

P.Uthaya Chandrika

...Respondent in W.A.(MD)No.334/2021

R.Jeeva

...Respondent in W.A.(MD)No.358 /2021

COMMON PRAYER: Writ Appeals filed under Clause 15 of Letters Patent, to set aside the common order dated 04.12.2019 made in WP(MD).No.16576 & 16574 of 2019 on the file of this Court and allow this Writ Appeal



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For Appellants : Mr.D.Sadiq Raja
Additional Government Pleader
For Respondent : Mr.T.Ponramkumar

COMMON JUDGMENT

(Made by **R.VIJAYAKUMAR,J.**)

The respondents in the writ petitions are the appellants.

(A)Factual background:

2.The respondents herein had filed the writ petitions to quash the order passed by the second appellant herein on 13.11.2018, wherein the request of the respondents/writ petitioners for grant of incentive increment for acquiring B.Ed., degree has been rejected. The writ Court after considering the submissions made on either side, had allowed the writ petitions on the ground that B.Ed., qualification is a higher qualification and therefore, the writ petitioners are eligible for one incentive increment. Challenging the same, the respondents in the writ petitions have filed the present writ appeals.



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3. On the strength of Diploma in Teacher Education, the writ petitioners in both writ petitions were appointed as Secondary Grade Teachers in Panchayat Union middle School on 28.01.1990 and 26.12.1988, respectively. They were promoted as a Elementary School Headmistresses on 17.06.2001 and 07.07.2000, respectively. After obtaining prior permission from the authorities, they had undergone B.Lit., (Tamil) and passed the same in the year 2015 and 2002 respectively. On the strength of the said B.Lit., (Tamil) qualification, the petitioners were promoted as Middle School Headmistresses. While they were working as Middle School Headmistresses, they obtained permission to undergo B.Ed., degree and they passed the same in the year 2018 and 2014.

4. Seeking incentive increment for acquiring B.Ed., degree, a proposal was sent to the Block Educational Officer. Under the impugned order dated 13.11.2018, he had rejected the same on the ground that the petitioners having been promoted as Headmistresses of the respective Middle Schools on the strength of B.Lit., degree, no incentive increment could be granted for acquiring B.Ed., degree. The writ petitioners had challenged the said order before this



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Court in W.P.(MD)Nos.16576 and 16574 of 2019. The writ Court relying upon the judgment of the Division Bench of this Court, which in turn had relied upon a reply under the Right to Information Act, had proceeded to allow the writ petitions. Challenging the same, the present writ appeals have been filed.

(B)Submissions of the parties:

5.The learned Additional Government Pleader appearing for the appellants had submitted that B.Ed., degree is one of the basic qualifications for being promoted as Headmistress of a Middle School and the same can never be treated as a higher qualification. He further contended that B.Lit., and B.Ed., degrees are equivalent qualifications and acquisition of B.Ed., degree after B.Lit., degree is only an additional qualification and not a higher qualification warranting grant of incentive increment. He further submitted that having been promoted on the basis of B.Lit., degree, the writ petitioners cannot now seek incentive increment for acquiring B.Ed., degree while holding the post of Headmistresses of Middle School. He further contended that as per G.O.Ms.No.42, Education Department dated 10.01.1969, a Teacher who possess B.Lit., and B.Ed., qualification can claim incentive increment only if



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they acquire M.A., M.Sc., or M.Ed.. He further relied upon G.O.Ms.No.107 dated 20.01.1971 to contend that B.T., and B.Ed., degrees are equivalent. Hence, B.Ed., degree can never be considered to be a higher qualification.

6.He further submitted that the Court ought not to have relied upon the reply under Right To Information Act to arrive at a finding that B.Ed., qualification is a higher qualification than B.Lit., ignoring Special Rules for Tamil Nadu Elementary Educational Subordinate Service. Hence, he prayed for allowing this writ appeal.

7.Per contra, the learned counsel appearing for the respondents/writ petitioners had contended that the writ Court had specifically relied upon the judgment of the Division Bench of this Court to arrive at a finding that B.Ed., degree is a higher educational qualification and therefore, the Teacher, who is already possessing B.Lit., degree and working as Headmistress of a Middle School is still entitled to seek for incentive increment for acquiring B.Ed., degree. Hence, he prayed for sustaining the order passed by the writ Court.



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8.We have carefully considered the submissions made on either side and perused the material records.

(C)Discussion:

9.The writ petitioners in both the writ petitions had passed B.Lit., (Tamil) in the year 2015 and 2002 and on the basis of the said B.Lit., degree, they were promoted as Middle School Headmistresses on 01.06.2017 and 01.06.2008. While they were working as Middle School Headmistresses, they had passed B.Ed., degree in the year 2018 and 2014. These facts are not in dispute.

10.Rule 6 (b)(i) of the Special Rules for Tamil Nadu Elementary Educational Subordinate Service Rules (hereinafter referred to a 'Special Rules' for the purpose of brevity) relating to Headmistress of Middle School is extracted as follows:



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<i>Name of category</i>	<i>Method of Appointment</i>	<i>Qualification</i>
<i>Headmaster of Middle Schools (B.Ed., grade)</i>	<i>Promotion and Transfer</i>	<i>1.A degree of any University in the State or a degree of equivalent standard and B.T. Or B.Ed. Degree of any University in the State or 2.(a)A degree in Tamil or any University in the State or (b)Minimum General Educational Qualifications as defined in Schedule I to the General Rules for the Tamil Nadu State and Subordinate Service and Title of Oriental Learning conferred by any University in the State in the Language Provided that persons appointed as Tamil Pandit in any School prior to 01.04.1976 shall be eligible for appointment in any other School even after 01.04.1976 and 3.B.T., or B.Ed., degree of any University in the State or a Senior Basic Grade Trained Teachers Certificate or successful completion of the Pandit Training Course of Diploma in Teaching awarded by any University in the State.</i>

11.Perusal of the Special Rules clearly reveal that for being promoted as Headmistress of a Middle School (B.Ed., grade), a Secondary Grade Teacher should either possess B.T., or B.Ed., or degree in Tamil of any University. Therefore, it is clear that B.Lit., degree (Tamil) is enough to be promoted as



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Headmistress of a Middle School (B.Ed., grade). It is further clear that it is equivalent to B.T/B.Ed., degree. In the present case, admittedly on the strength of B.Lit., degree the petitioners have been promoted as Headmistresses of Middle School.

12.As per G.O.Ms.No.42, Education Department dated 10.01.1969, one incentive increment has to be awarded to the Teachers, who acquired higher educational qualification. Unless the qualification acquired by a Teacher is higher than the minimum qualification required for a particular post, incentive increment cannot be granted. In the present case, B.Lit., which is equivalent to B.Ed., is one of the minimum required educational qualification for being promoted as Headmistress of a middle school. Therefore, the petitioners are not entitled to seek incentive increment for acquiring B.Ed., degree, which is not only an additional qualification but also equivalent to B.Lit., degree. Only if the petitioners acquire a P.G. Degree, the same can be considered to be a higher qualification.



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13.The writ Court had relied upon the judgment of the Division Bench of this Court in W.A.(MD)No.435 of 2017 dated 25.04.2017, wherein, the Division Bench had relied upon a reply given under the Right To Information Act to arrive at a finding that incentive increment can be granted for acquiring B.Ed., degree by the Teachers, those who have already acquired B.Lit., degree. Perusal of the Tamil portion extracted in the writ order reveals that under RTI reply, the Official had stated that since promotion could be granted to a Secondary Grade Teacher based upon B.Lit., degree, the acquisition of B.Ed., degree is not necessary and if acquired, it can be considered to be a higher qualification.

14.The said RTI reply of the concerned official is quite contrary to the Special Rules, which clearly indicates that B.T., B.Ed., and B.Lit., degrees are equivalent educational qualifications and possession any of them is the basic qualification required for being promoted and appointed as Headmistress of a Middle School.



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15. Therefore, with due respect to the Hon'ble Division Bench, we are not concurring with the said views. The writ Court had solely relied upon the said Division Bench judgment to allow the said writ petitions, which we find to be not in consonance with the statutory Service Rules.

16. In view of the above said deliberations, the order of the writ Court is set aside and the writ appeals are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K.J.] [R.V.J.]
15.04.2024

NCC : yes/no
Index : yes/no
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**D.KRISHNAKUMAR, J.
AND
R.VIJAYAKUMAR,J.**

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Pre-delivery Judgment made in
W.A(MD).Nos.334 & 338 of 2021

15.04.2024