



W.A(MD)No.1629 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2024

CORAM:

**THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN
and
THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN**

**W.A(MD)No.1629 of 2016
and
C.M.P(MD)No.12327 of 2016**

- 1.The Secretary to Government,
School Education,
Fort. St. George,
Chennai-9.
- 2.The Director of School Education,
College Road,
Chennai-6.
- 3.The Additional Assistant Elementary Educational Officer,
Assistant Elementary Educational Office,
Paramakudi,
Ramanathapuram District.Appellants/Respondents 1 to 3

Vs.

- 1.P.Sargunadevi 1st Respondent/Writ petitioner
- 2.The Headmaster,
Panchayat Union Middle School,
Keelaperungarai,



W.A(MD)No.1629 of 2016

Paramakudi,
Ramanathapuram District.

...2nd Respondent/4th Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act, to set aside the order dated 09.02.2015 in W.P(MD)No.18472 of 2014.

For appellants : Mr.D.Sadiqraja
Additional Government Pleader

For R1& R2 : No appearance

JUDGMENT

(Order of the Court was made by V.BHAVANI SUBBAROYAN,J.)

This Intra Court appeal is filed by the State against the order passed by the writ Court, dated 09.02.2015 made in W.P(MD)No.18472 of 2014, which was filed by one P.Sargunadevi.

2. The learned Single Judge while considering the impugned order passed in A.D.M.No.1574/A1/2014 and 1576/A1/2014, dated 05.09.2014 followed the judgment of the Division Bench of this Court made in W.A.No.2307 of 1999, dated 20.06.2006, wherein it has been held as follows:-



W.A(MD)No.1629 of 2016

WEB COPY

“3.Following the said judgments of the Division Bench, the impugned order is set aside and the second respondent is directed to sanction and pay the incentive increment for possessing M.Phil degree by the petitioner from 18.01.1997 within a period of six weeks from the date of receipt of a copy of this order”.

3. Accordingly, the learned Single Judge directed the respondents to sanction third incentive increment to the petitioners for possessing M.Phil degree, within a period of eight weeks from the date of a copy of this order.

4. It is seen that a batch of writ appeals was filed challenging all the third incentive increment and the matters were referred to the Full Bench of this Court as to whether the teachers are entitled to third incentive increment on account of acquiring an M.Phil qualification or not?.

5. The Full Bench of this Court, considering the question as to whether the teachers are entitled to third incentive increment on account of acquiring an M.Phil qualification or not, passed an order dated 06.04.2022, wherein it has been held that for the Post Graduate Teachers and Headmasters of Higher Secondary



W.A(MD)No.1629 of 2016

WEB COPY

School, it is found that one incentive increment has been allowed when they acquire higher qualification and they cannot have third set of incentive increment and the Court is also of the view that the said increment is granted only in order to encourage the school teachers to acquire additional/higher qualification for the purpose of providing qualitative education to the student community, for which, the Government also introduced the concept of grant of advance incentive increments to the teachers working in the Elementary or Middle Schools in the post of Secondary Grade Teacher, in the High Schools in the post of B.T.Assistant and in the Higher Secondary Schools in the post of P.G.Assistant. It is also held that for the Education Incentive Increment to the teachers in schools for acquiring higher educational qualification - admissibility of number of incentive increments, the Government issued G.O.Ms.No.1024, Education Science & Technology Department, dated 09.12.1993, wherein it is clearly indicated as follows:-

“The maximum number of advance increments which a teacher could get under the scheme of incentive increments, shall be four in his/her entire service.”

(one incentive increment is equivalent to two advance increments). The said position was clarified by the Government in



W.A(MD)No.1629 of 2016

WEB COPY G.O.Ms.285, School Education Department, date 28.11.2007,
which reads as follows:

“As per the policy decision of the Government, two incentives (four increments) only may be granted to the teachers for the entire period of their service and hence, accepting the above recommendation of the Director of School Education, for the Headmasters who got only one incentive for M.Ed., qualification during his service as Post Graduate Teachers and promoted to the Headmaster Post and after the promotion as Headmasters, on acquiring M.Phil/Ph.D/PGDTE qualification allowing a second incentive to such Headmasters from the date of the issue of this G.O., is ordered.”

6.Of course, the respondent in his affidavit filed in support of the Writ Petition has referred to certain Government Orders as well as the Orders of this Court granting a third set of incentive increments to certain teachers. The said Government Orders have also been produced before us by the learned Government Advocate, those Government Orders have been passed in particular cases, considering the peculiar circumstances of the case and the fact that the higher qualification in those cases are obtained, before 09.12.1993, I.e., the date on which the first G.O., I.e., G.O.Ms.No. 1023 was passed restricting the number of incentive increments to a maximum of two, during the service of the teacher. Therefore, we



W.A(MD)No.1629 of 2016

WEB COPY

do not think that those Government Orders which have been passed taking note of certain special circumstances could be taken as precedents to enable the respondent to claim an incentive increment, which he would not be entitled to otherwise.

7.The policy decision of the Government has been consistent to the effect that the teachers who acquire higher qualification can be granted two incentive increments equivalent to four advance increments, during the entire tenure of their service. There is no dispute regarding the fact that the respondent has been awarded two incentive increments for acquiring B.Ed., and M.A., qualifications. Therefore, he cannot, as a matter of right, claim the third set of incentive increments for having obtained M.Phil qualification. We are therefore, unable to sustain the order of the learned Single Judge directing payment of third incentive increment to the respondent.”

6. Considering the Full Bench Judgment of this Court and also the aforesaid Government Order, we are of the opinion that the policy decision of the Government has been consistent to the effect that the teachers who acquire higher qualification can be granted two incentive increments equivalent to four advance increments, during the entire tenure of their service. Hence, the respondent is not entitled for third set of incentive increment. Accordingly, the writ appeal is



W.A(MD)No.1629 of 2016

allowed and the order of the learned Single Judge, dated 09.02.2015 in W.P(MD)No.18472 of 2014 is set aside. No costs. Consequently, connected miscellaneous petition is closed.

[V.B.S.,J.] [K.K.R.K.,J.]
28.02.2024

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W.A(MD)No.1629 of 2016

V.BHAVANI SUBBAROYAN, J.
and
K.K.RAMAKRISHNAN, J.

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JUDGMENT MADE IN
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