



W.P.(MD)No.21039 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 08.07.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.21039 of 2021
and
W.M.P.(MD)No.17651 of 2021

T.Anne Bercila

... 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, Chennai – 600 006.
- 3.The Chief Educational Officer,
Kanyakumari District at,
Nagercoil – 629 001.
- 4.The District Educational Officer,
Kuzhithurai at Marthandam,
Kanyakumari District.
- 5.The Correspondent,
Concordia Higher Secondary School,
Potteti, Theruvukkadai post,
Kanyakumari District – 629 157.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the 4th respondent District Educational Officer in Na.Ka.No.1592/A2/2021 dated 03.08.2021, quash



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the same and further direct the respondents 1 to 4 to sanction two advanced increments to the petitioner for acquiring M.Phil Degree w.e.f 13.04.2009.

For Petitioner : Mr.T.Cibi Chakraborty
For Respondents 1 to 4 : Mr.M.Sarangan
Additional Government Pleader
For 5th Respondent : No Appearance

ORDER

This Writ Petition has been filed to quash the impugned order issued by the 4th respondent District Educational Officer in Na.Ka.No. 1592/A2/2021 dated 03.08.2021 and to direct the respondents 1 to 4 to sanction two advanced increments to the petitioner for acquiring M.Phil Degree w.e.f 13.04.2009.

2.The facts, which lead to the filing of the Writ Petition in brief are as follows:-

The petitioner was initially appointed as a PG Assistant in Botany on 17.11.1993 in the 5th respondent School, which is administered by the Corporate Management, namely, the Indian Evangelical Lutheran Church, Nagercoil Synod and the School is a Minority Educational Institution. The petitioner passed M.Phil degree through correspondence course from the PRIST University during the year 2009, following which, she made an application to the District Educational Officer for grant of incentive increments for having passed the degree of M.Phil in the year



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2009 with effect from 13.04.2009. However, her representation was not considered and hence, she filed a Writ Petition in W.P.(MD)No.11916 of 2017 before this Court and this Court was pleased to direct the 4th respondent herein to consider the representation of the petitioner on merits and in accordance with law, if the petitioner is otherwise eligible. Following this, the 4th respondent issued orders rejecting the request of the petitioner for grant of incentive increment for having obtained the degree of M.Phil, for the reason that she did not get prior permission from the Department and that the degree obtained from the University through distance education was not a valid one, vide order dated 27.04.2021, by proceedings in Na.Ka.No.6444/Aa2/2018. The said order was further confirmed by yet another order dated 03.08.2021. Assailing the said orders of rejection, the petitioner has filed this Writ Petition.

3.The learned counsel appearing for the petitioner submitted that the matter in issue is no more *res integra* and the question of not obtaining of prior permission before pursuing higher education is already settled by the various judgments of this Court. He further drew my attention to an order passed by the 4th respondent District Educational Officer dated 10.10.2016, sanctioning two advance increments for M.Phil degree to the similarly placed person like that of the petitioner, who had pursued M.Phil degree from the same PRIST University, Thanjavur. In view of the same, contending that the act of the District Educational



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Officer in not granting two advance increments to the petitioner is highly arbitrary, discriminatory and illegal, he submitted that the respondents ought to have considered the detailed representation submitted by the petitioner to the 1st respondent and should have duly sanctioned him with two incentive increments as required by him. He further insisted that the District Educational Officer failed to see that he himself had sanctioned two advance increments for M.Phil degree to similarly placed persons, particularly, one S.Sreekumar, PG Assistant, at TCK Higher Secondary School, Padanthalmoodu, for his M.Phil degree course studied at PRIST University, Thanjavur and he pressed for allowing the Writ Petition.

4.The 4th respondent has filed a counter affidavit and the learned Additional Government Pleader appearing for the respondents 1 to 4 submitted that the Government has issued a Government Order in G.O.Ms.No.91, Higher Education (K-2) Department, dated 03.04.2009, in which, it has been mandated that since the UGC has done away with acquiring of SLET/NET qualification for M.Phil and Ph.D candidates, it has become essential to improve the quality of M.Phil/Ph.D course and hence, it was suggested in the aforesaid G.O., that from the academic year 2007 - 2008 onwards, M.Phil and Ph.D program may not be offered through distance education and the same could be offered only in regular courses. Relying upon the said G.O., the learned Additional Government Pleader submitted that in view of the aforesaid G.O., the M.Phil degree



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obtained by the petitioner during the year 2008-2009 is an invalid degree and he also added that before the year 2008, it was regarded as valid but from the year 2007 - 2008, the degree of M.phil obtained through distance education mode is not treated as valid and on that basis, pressed for dismissing the Writ Petition.

5.Heard the learned counsel for the petitioner, the learned Additional Government Pleader for the respondents 1 to 4 and carefully perused the materials available on record.

6.The Hon'ble Division Bench of this Court has already dealt with the validity of higher qualification obtained from the PRIST University in W.A.(MD)No.1187 of 2016 batch dated 16.04.2016 and the relevant portion of the same is extracted as follows:-

“2. There is no dispute with regard to the policy decision of the State Government to accord incentive increment for acquiring the higher qualifications. But however, the dispute centered around is as to whether the higher qualification acquired by the writ petitioners is from a recognized institution or not.

3. The learned Special Government Pleader, thankfully has placed before us the order passed by the State Government contained in G.O.Ms.No.39, Personnel and Administrative Reforms (S) Department, dated 30.04.2014, making necessary amendments to the General Rules in Part II of the Tamil Nadu State and Subordinate Services Rules



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(Volume I of the Tamil Nadu Services Manual, 1987).

4. Insofar as the State of Tamil Nadu is concerned at Serial No.501, the following institution finds its name, i.e. Ponnaiyah Ramajayam Institute of Science & Technology (PRIST), Yagappa Chavadi, Thanjavur-614 904, Tamil Nadu (Deemed University), in the list of Universities and Institutions recognized by the University Grants Commission.

5. When once the University Grants Commission itself recognized the Institute where from the petitioners have obtained their higher educational qualifications, it goes without saying that they are in possession of valid higher educational qualifications which as per the policy decision of the State Government, their incentive increments have got to be awarded."

7. In view of the aforesaid judgment, the submission of the learned Additional Government Pleader that the M.Phil degree obtained by the petitioner from the PRIST University, at Thanjavur is an invalid and is not sustainable and fully fortified by the judgment passed by the Hon'ble Division Bench of this Court, wherein it has been categorically held that, Ponnaiyah Ramajayam Institute of Science and Technology (PRIST), Yagappa Chavadi, Thanjavur – 614 904, Tamil Nadu (Deemed University) is a recognized University. I have no hesitation to hold that the contention of the respondents that the M.Phil degree obtained by the petitioner from PRIST University is an invalid one cannot be sustained. As far as the question of obtaining higher educational qualification



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without the prior permission of the Authorities is concerned, the same has been settled by a number of decisions of this Court. This Court in W.P.(MD)No.2428 of 2021 dated 10.02.2021, has dealt with the same issue and the relevant portion of the same is extracted as follows:-

“3. This Court, in various writ petitions have held that claims for conferment of incentive increment for acquiring higher educational qualifications cannot be denied on the ground that such higher qualifications were acquired without prior permission. One such order of this Court passed in the case of J.Tamilrajan vs. Department of School Education and others passed in W.P.(MD) No.4019 of 2018, reads thus:~

‘3.In W.P(MD).No.1049 of 2012, a learned single Judge of this Court has considered the similar question and has rejected the claim of the department that if the higher education is pursued without consent of the permission of the department, the teacher was not entitled to the incentive increments for obtaining such higher qualification. Following the said Judgment, another learned single Judge of this Court in W.P.No.18086 of 2017 has held that want of permission cannot stand in the way of the petitioner being favoured with the incentive increments for having obtained higher qualifications. While doing so, paragraph 7 of the order, this Court has observed as follows:

“7.This Court in the unreported decision made in W.P(MD).No.21895 of 2015 dated 08.12.2015, while considering the claims for conferment of incentive increment for acquiring qualification and the contention that they were acquired without prior permission, held that conferment of incentive increment cannot be denied on that score. Acquiring



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higher education by the teacher is only for the benefit of students. In that view of the matter, the first ground of opposition stands rejected”

4. In view of the above, the sole ground on which the authorities rejected the claim of the petitioner towards incentive increments fails and the writ petition is liable to succeed. The impugned order of rejection is therefore, quashed. The respondents are directed to sanction the incentive increments to the petitioner for obtaining the higher qualifications namely M.A.History and B.Ed Degree from the date of acquisition of the respective qualifications. The said exercise shall be completed within 8 weeks from the date of receipt of a copy of this order.”

4. By applying the ratio held in the aforesaid decision as well as various other decisions, on the same line, it can be said that the petitioner herein would be entitled for incentive increment for having possessed higher educational qualification, even though he had not obtained prior permission of the Authorities for having undergone the course for such higher education.”

8.I have dealt with a similar case in W.P.(MD)No.7138 of 2023 and by order dated 28.07.2023. I have passed favourable orders to the petitioners therein and the relevant portion of the same is extracted as follows:-

“7.As far as this case is concerned, all the petitioners acquired higher qualifications before 10.03.2020 and mostly in the years 2015 and 2016. Though they have not obtained



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prior permission for acquiring the said qualification M.Phil, they have repeatedly requested later for ratification of acquiring the higher qualification. This issue is no more res integra and time and again, this Court has held that the petitioners would be entitled for incentive increments for having possessed higher educational qualifications even though they had not obtained prior permission from the authorities for having undergone the course for such higher education. Clause 6(vi) of G.O(Ms)No.37, Personnel and Administrative Reforms (FR~IV) Department, dated 10.03.2020, also mandates that the cases of the Government servants who have acquired higher qualifications would be examined in terms of the previous orders issued.”

9. Fully fortified by the orders extracted supra, I am of the considered view that the impugned order passed by the respondents rejecting the petitioner's claim for two advance increments for obtaining M.Phil degree without prior permission from PRIST University, Thanjavur is not sustainable and accordingly, the impugned order passed by the 4th respondent District Educational Officer in Na.Ka.No.1592/A2/2021 dated 03.08.2021 is hereby quashed.



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10. Accordingly, the Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

08.07.2024

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

To

1. The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai – 600 009.
2. The Director of School Education,
College Road, Chennai – 600 006.
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L.VICTORIA GOWRI, J.

Mrn

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