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W.P.(MD) No.3252 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.3252 of 2017

and

W.M.P.(MD) No.2594 of 2017

S.Sumathi

... 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 Elementary Education
College Road, Chennai-600 006
- 3.The District Elementary Educational Officer
Tirunelveli, Tirunelveli District
- 4.The Assistant Elementary Educational Officer
Palayamkottai Town
Palayamkottai
Tirunelveli District
- 5.The Headmaster
Corporation Primary School
Haameempuram
Melapalayam, Tirunelveli District

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned proceedings issued by the second respondent herein *vide* Na.Ka.No. 017731/E1/2015 dated 24.08.2016 and subsequently impugned proceedings issued by fourth respondent herein *vide* O.Mu.No.288/A1/2016 dated 03.10.2016, quash the same and further direct the respondents 1 to 3 herein to sanction two set of incentive increment to the petitioner for acquiring B.Ed., Degree and M.Com., Degree with effect from the date of passing of the degrees respectively.

For Petitioner : Mr.A.Ajith Geethan

For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

This writ petition has been filed challenging the order dated 24.08.2016, passed by the second respondent and the subsequent proceedings dated 03.10.2016, issued by the fourth respondent, rejecting the petitioner's request to sanction two sets of incentive increment to her for acquiring B.Ed., Degree and M.Com., Degree, with effect from the date of passing of the said Degrees.



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2. Under the impugned orders, the petitioner's request has been rejected, on the ground that B.Ed., Degree and M.Com., Degree are not eligible for grant of incentive increment. The petitioner is a Secondary Grade Teacher. She has acquired B.Ed., Degree and M.Com., Degree, after she became a Secondary Grade Teacher. She has sought for grant of incentive increment, which has been rejected / returned by the respondents under the impugned orders.

3. Learned counsel for the petitioner drew the attention of this Court to G.O.Ms.No.324, Education, Science and Technology Department (E2), dated 25.04.1995 and would submit that only in terms of the said Government Order, the petitioner is eligible for grant of incentive increment for having acquired B.Ed., Degree and M.Com., Degree, after becoming a Secondary Grade Teacher.

4. Learned counsel for the petitioner also drew the attention of this Court to the following authorities in support of his contention that the petitioner is entitled for grant of incentive increment:



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- (a) A decision rendered by me, dated 23.09.2022, in W.P.No.22965 of 2019, in the case of **V.Mylsamy vs. State of Tamil Nadu and others.**
- (b) A decision rendered by the another learned Single Judge of this Court, dated 19.11.2021, in W.P.(MD) No.1634 of 2018, in the case of **C.Pandiammal vs. The District Elementary Educational Officer and another.**

5. On the other hand, learned Government Advocate appearing for the respondents drew the attention of this Court to a Division Bench Judgment of this Court, dated 24.08.2022, passed in W.A.(MD) No.910 of 2022, in the case of **R.Sakthivel vs. The Secretary to Government and others** and would submit that it has been made clear in the said decision of the Honourable Division Bench of this Court that any higher qualification acquired by a Secondary Grade Teacher should be beneficial to the students for whom, the Secondary Grade Teacher is teaching. He would submit that since the petitioner is a Secondary Grade Teacher teaching for the students of



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Standards 1 to 8, acquiring of B.Ed., Degree and M.Com., Degree has no benefit for the students studying Standards 1 to 8 and hence, as per the aforementioned decision of the Honourable Division Bench of this Court, the petitioner is not entitled for grant of incentive increment and therefore, under the impugned orders, the same has been rightly rejected.

6. In the decision rendered by me, dated 23.09.2022, in W.P.No. 22965 of 2019, in the case of ***V.Mylsamy vs. State of Tamil Nadu and others***, while interpreting G.O.Ms.No.324, dated 25.04.1995, relied upon by the learned counsel for the petitioner, it was made clear that sanction of incentive increment should be with reference to developing areas of study and subjects where Teachers shortage has been identified. It was also made clear that the grant of incentive increment can be rejected only for the Teachers, who had acquired higher qualification in subjects other than Higher Secondary syllabus.

7. In the case on hand, it is not in dispute that Commerce is a Higher Secondary subject and it forms part of the Higher Secondary syllabus. In the aforementioned decision rendered by me, it was a case of a Secondary



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Grade Teacher. This Court in the said decision dealt with a case, where the Teacher had acquired M.A. (Economics) and M.Phil. (Economics) by way of higher qualification and in the instant case, the petitioner has acquired B.Ed., Degree and M.Com., Degree by way of higher qualification. In almost identical circumstances, this Court, after elaborately discussing and interpreting G.O.Ms.No.324, dated 25.04.1995, which provides for incentive increment, had quashed the impugned order rejecting the plea for grant of incentive increment for having acquired higher qualification of M.Phil. (Economics). The petitioner in the instant case is similarly placed as that of the petitioner in W.P.No.22965 of 2019, wherein, I had rendered a decision dated 23.09.2022.

8. The another learned Single Judge of this Court, by her order dated 19.11.2021, in W.P.(MD) No.1634 of 2018, in the case of ***C.Pandiammal vs. The District Elementary Educational Officer and another***, had also considered G.O.Ms.No.324, dated 25.04.1995, while dealing with M.Com. Degree, and held that the petitioner therein is eligible for grant of incentive increment.



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9. The Division Bench Judgment of this Court, dated 24.08.2022, in W.A.(MD) No.910 of 2022, in the case of ***R.Sakthivel vs. The Secretary to Government and others***, relied upon by the learned Government Advocate appearing for the respondents, was dealing with a case, where the Teacher was taking classes for the students from Standards 1 to 5 and the Degree that was under consideration was M.Sc. (Physics) Degree. Only under those circumstances, the Honourable Division Bench held that the Government Order was right in denying the grant of incentive increment for higher qualification, when the higher qualification is not beneficial to the students studying Standards 1 to 5. It is undoubtedly clear that for the students studying Standards 1 to 5, M.Sc. (Physics) Degree acquired by the Teacher will have no benefit to them, as part of their syllabus, Physics subject is never taught. Physics is a subject, which may be taught only from sixth standard onwards. Whereas, Commerce, though not taught as a main subject upto Tenth Standard, acquisition of higher qualification in Commerce by the petitioner will be certainly beneficial to the students studying from Sixth Standard onwards. The students of Sixth Standard onwards study Social Studies and allied subjects, in which, Commerce is also indirectly taught. B.Ed., Degree is also beneficial to the students as it is a Degree meant to hone



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the teaching skills. Due to the said reason, this Court is of the considered view that the Division Bench Judgment of this Court, dated 24.08.2022, relied upon by the learned Government Advocate appearing for the respondents, referred to supra, cannot be applied to the facts of the present case. Only under those circumstances, this Court had held that incentive increment is payable for having acquired higher qualification of Commerce, in its order dated 19.11.2021, passed in W.P.(MD) No.1634 of 2018. This Court also in its decision, dated 23.09.2022, referred to supra, has also applied the same yardstick.

10. For the foregoing reasons, this Court is of the considered view that the respondents, by total non-application of mind to the fact that B.Ed., Degree and M.Com., Degree will be beneficial to the students of Standards 6 to 8, for whom the petitioner is teaching, have erroneously rejected the petitioner's request for grant of incentive increment, in accordance with G.O.Ms.No.324, Education, Science and Technology Department (E2), dated 25.04.1995.



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11. In the result, the impugned orders, dated 24.08.2016, passed by the second respondent and the subsequent proceedings, dated 03.10.2016, issued by the fourth respondent, are hereby quashed and the writ petition is allowed. The respondents 2 & 3 are directed to sanction two sets of incentive increment to the petitioner for acquiring B.Ed., Degree and M.Com., Degree with effect from the date of passing of the said Degrees respectively, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

11.09.2024

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

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To:

- 1.The Secretary,
Department of School Education,
State of Tamil Nadu,
Fort St.George, Chennai-600 009.
- 2.The Director of Elementary Education,
College Road, Chennai-600 006.
- 3.The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.



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- 4.The Assistant Elementary Educational Officer,
Palayamkottai Town,
Palayamkottai,
Tirunelveli District.
- 5.The Headmaster,
Corporation Primary School,
Haameempuram,
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ABDUL QUDDHOSE, J.

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