



WEB COPY



W.P.(MD)No.3702 of 2017

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 09.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.3702 of 2017

S.V.K.Sivagami

... Petitioner

Vs

1.The Government of Tamil Nadu,
Represented by Secretary to Government,
School Education Department,
Secretariat, Chennai – 600 009.

2.The Director of Elementary Education,
Dpi Compound, Chennai-600 006.

3.The District Elementary Education Officer,
Dindigul.

4.The District Elementary Education Officer,
Madurai.

5.The Assistant Elementary Education Officer,
Thirupparankundram Union, Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records connected with the impugned order passed by the 4th respondent in



W.P.(MD)No.3702 of 2017

proceedings Na.Ga.No.5608/Aa2/2016 dated 10.01.2017 and quash the same and direct the respondents to award two incentive increment to the petitioner for acquiring higher qualification of M.Sc, B.Ed. with effect from the date of appointment.

For Petitioner : Mr.R.Santhanam

For Respondents : Mr.P.T.Thiraviyam,
Government Advocate.

ORDER

The present Writ Petition has been filed by a Secondary Grade Teacher challenging the order passed by the 4th respondent herein, wherein the request of the petitioner for grant of incentive increment was rejected.

2. The petitioner belonging to Scheduled Caste Community was selected for the post of Secondary Grade Teacher and appointed in the Elementary School, Vadaparuthiyur Village, Thooppampatti, Union of Dindigul District on 14.03.1997. Though she was qualified to be appointed as Graduate Teacher, in view of insufficiency of candidates



W.P.(MD)No.3702 of 2017

WEB COPY

belonging to Scheduled Caste and Scheduled Tribe Community for the post of Secondary Grade Teachers, she was appointed as Secondary Grade Teacher.

3. The petitioner herein had completed Child Psychology training in the year 1997. Though she had got higher qualification, she was not granted incentive increments for her higher studies at the time of appointment and promotion. Hence, she made a representation to the fourth respondent herein seeking incentive increment. Under the impugned order, the fourth respondent had rejected the said request on 10.01.2017 on the ground that the petitioner was appointed as a Secondary Grade Teacher and at the time of appointment itself she had higher qualification and she had given an undertaking that she would not seek for incentive increment. This order is under challenge in the present Writ Petition.

4. The learned counsel appearing for the petitioner contended that since there was insufficiency of candidates from the Scheduled Caste and Scheduled Tribe Community for being appointed as a Secondary Grade Teachers, the said posts were filled up by Graduate Teachers. Therefore,



W.P.(MD)No.3702 of 2017

the Government had issued Government Order in G.O.Ms.No.83, School Education (Elementary Education.1(2) Department, dated 28.04.2017, conferring incentive increment for such Teachers. Without considering the said Government Order, the present impugned order has been passed.

5. The learned counsel appearing for the petitioner has relied upon a Division Bench judgment of this Court in ***R.Premakumari Vs. State of Tamil Nadu and 3 others*** reported in ***2008-3-L.W.383***, wherein the Division Bench of this Court has held that the incentive increments cannot be rejected to the Teachers, who had acquired higher qualification at the time of their appointments.

6. Per contra, the learned Government Advocate appearing for the respondents herein relied upon a Government Order in G.O.(Ms)No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020 and pointed out that the scheme of sanction of advance increment for acquiring higher qualification has been cancelled. Therefore, the petitioner is not eligible to give any incentive increment after this Government Order.



W.P.(MD)No.3702 of 2017

WEB COPY

7. I have carefully considered the submissions made on either side and perused the materials available on record.

8. The petitioner had joined the service with B.Sc.,B.Ed., qualification. Though she was qualified to be appointed as Graduate Teacher, she was accommodated as a Secondary Grade Teacher at the time of her original appointment. A perusal of Government Order in G.O.Ms.No.83, School Education [Elementary Education.1(2)] Department, dated 28.04.2017 reveals that in all cases where Graduate Teachers were appointed to the post of Secondary Grade Teacher in view of insufficiency of Scheduled Caste candidates, the Government had decided to grant incentive increments.

9. A perusal of paragraphs 5 and 6(vi) of G.O.(Ms)No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020 reveal that if the Government servants have acquired higher qualification prior to the issuance of the Government Order, they would not be governed by G.O.(Ms)No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020. Therefore, there cannot



W.P.(MD)No.3702 of 2017

be any dispute that the petitioner's request would be governed by G.O.Ms.No.83, School Education (Elementary Education.1(2) Department, dated 28.04.2017. Without considering the said aspect, the present impugned order has been passed.

10. In the light of the above deliberations, the order impugned in the present Writ Petition is set aside and the matter is remitted back to the file of the fourth respondent. The fourth respondent is directed to award two incentive increments to the petitioner for acquiring higher qualification, as per G.O.Ms.No.83, School Education [Elementary Education.1(2)] Department, dated 28.04.2017.

11. This Writ Petition is allowed to the extent as stated above. There shall be no order as to costs.

09.02.2024

NCC : Yes / No

Index : Yes / No

vsm



WEB COPY



W.P.(MD)No.3702 of 2017

To

- 1.The Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Secretariat, Chennai – 600 009.
- 2.The Director of Elementary Education,
Dpi Compound, Chennai-600 006.
- 3.The District Elementary Education Officer,
Dindigul.
- 4.The District Elementary Education Officer,
Madurai.
- 5.The Assistant Elementary Education Officer,
Thirupparankundram Union, Madurai District.



WEB COPY



W.P.(MD)No.3702 of 2017

R.VIJAYAKUMAR, J.

vsm

W.P.(MD)No.3702 of 2017

09.02.2024