



W.P.(MD).Nos.24507 of 2022 etc., Batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.04.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).Nos.24507 of 2022, 7580, 10538, 11659, 13940, 14294,
16949, 16987, 16992, 17433, 17470, 18927, 18928, 18929, 21264,
21265, 21266, 21728, 22513, 23852, 23858, 28107 of 2023, 2968, 7030
and 7620 of 2024

and

W.M.P.(MD).Nos.7065, 7066, 9361, 10119, 11764, 11765, 12093,
12094, 12192, 12206, 14173, 14174, 14216, 14217, 14221, 14222,
14608, 14638, 15728, 15730, 15732, 17664, 17666, 17667, 17668,
17669, 17670, 18011, 18130, 18231, 18240, 18267, 18438, 18515,
18518, 18530, 18577, 18747, 18748, 18793, 18804, 20009, 20010,
20017, 20018, 20699, 22437, 22489, 22832, 22858, 24199, 24200,
25992 of 2023, 862, 995, 2254, 2288, 2289, 2564, 2751, 2958, 5753,
6518, 6519, 6969 and 8956 of 2024

W.P.(MD).No.24507 of 2022

D.Kayalvizhi

... Petitioner

Vs.

1.The Regional Accounts Officer (Audit),
Regional Accounts Officer,
Department of School Education,
Thallakulam,
Madurai - 635 002.

2.The Chief Educational Officer,
O/o. the Chief Educational Officer,
Sivagangai District.



W.P.(MD).Nos.24507 of 2022 etc., Batch

WEB COPY

3.The District Educational Officer,
O/o. the District Educational Officer,
Sivagangai District.

4.The Head Master,
Government Girls Higher Secondary School,
Manamadurai,
Sivagangai District.

5.The Registrar,
Alagappa University,
Karaikudi,
Sivagangai District.

6.The University Grant Commission (UGC),
Rep. by its the Secretary,
Bahadur Shastri Marg,
New Delhi.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari Mandamus, by calling for the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.1015/A6/2021 dated 06.05.2021 and to quash the same and consequentially directing the respondents to pay the incentive increment continuously.

For Petitioner : M/s.P.Jessi Jeeva Priya

For R-1 to R-3 : Mr.T.Amjad Khan
Government Advocate

For R-4 : No appearance

For R-5 & R-6 : Mr.T.Cibi Chakrabarthi



WEB COPY



W.P.(MD).Nos.24507 of 2022 etc., Batch

COMMON ORDER

Since the issues involved in all the cases are identical, they have been clubbed together, heard together and are being disposed of by this common order.

2. The writ petitions have been filed by the Teachers questioning the validity of the orders of rejection refusing to grant incentive increment for acquiring M.Phil., Degree under the Summer Sequential Programmes conducted by Alagappa University.

3. The petitioners had obtained M.Phil., Degree from Alagappa University by joining a Summer Sequential Programme which followed the choice based credit system during the academic year 2018-2019, 2016-2017, 2017-2018 respectively. The petitioners completed the said course successfully and received the incentive for the said higher qualification.

4. However, the authority concerned has cancelled the incentive increment granted to the petitioners stating that M.Phil course offered by



W.P.(MD).Nos.24507 of 2022 etc., Batch

the Alagappa University through Summer Sequential Programme is not a recognized one. It is not an UGC approved programme and hence, re-fixed the salary by reducing the scale of pay of the petitioners.

5. The same issue has been already dealt by this Court in ***W.P(MD)No.9195 of 2024 dated 15.04.2024 (Geetha Vs. The Secretary to Higher Education, Secretariat of Higher Education, Chennai)***, in which the following order has been passed :

“4. The petitioner is working as a graduate teacher in Panchayat Union Middle Secondary School, A.Venlangudi, Karaikudi Taluk, Sivagangai District. The third respondent has issued a proceedings, dated 27.03.2024 alleging that the petitioner has got the incentive increment for higher qualification in M.Phil Degree offered by Karaikudi Alagappa University following choice based credit System during Summer Sequential period, even though the Degree is not recognised by the State and Central Governments. The above issue is dealt in W.A.(MD)No.259 of 2023 dated 07.12.2023, in which, a direction was given to the Government to consider the above issue and pass orders. The above order calling for the Government to take a decision in the above Writ Appeal is extracted as under :



WEB COPY



W.P.(MD).Nos.24507 of 2022 etc., Batch

“14. In view of the facts and circumstances, we pass the following orders:

- (i) The common order, dated 27.02.2023, passed in W.P.(MD) Nos.66, 67, 10386, 11609, 11720, 13879, 15666, 18235, 18236, 18237, 18238, 18239, 18240, 18241, 18242, 19438, 19718, 21691 & 21692 of 2022 and 2039, 2042 of 2023, are set aside to the limited extent of reconsidering the entire issues afresh.*
- (ii) The matter is remanded back to the Government for taking decisions on the equivalence and the validity of the M.Phil., Degree obtained by the writ petitioners / teachers under the Summer Sequential Programmes conducted by Alagappa University and to take a decision, whether the said Degree is to be considered for the purpose of grant of incentive increment or not.*
- (iii) The Government is expected to decide the issues as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this Judgment.*
- (iv) Accordingly, the writ appeals are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.”*



W.P.(MD).Nos.24507 of 2022 etc., Batch

5. Pursuant to the above order, the issue is pending with the Government for taking a decision. Now, the grievance of the petitioner is that even before the matter was disposed of by the Government, the impugned notice has been given calling for explanation for recovering the amount towards the incentive enjoyed by the petitioner so far.

6. When the Government itself has not taken any decision, the petitioner may not be able to give any Government Order or document to prove that their entitlement to receive the incentive increment is supported by the Government Orders themselves. However, it is possible for the petitioner to place a request to the third respondent to extend the time for giving explanation till the Government takes a decision in the matter and pass orders thereon.

7. In the event of such a request is made by the petitioner, the third respondent shall consider the same and keep the matter in abeyance until the Government passes an order consequent to the directions of this Court in W.A. (MD)No.259 of 2023 etc., batch dated 07.12.2023.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.”

6. In the present case also, the impugned orders have been passed without issuing any show cause notice. The above order which has been



W.P.(MD).Nos.24507 of 2022 etc., Batch

passed in a similar case is very much applicable to the issue herein also.

WEB COPY

7. In view of the decision rendered in W.A.(MD)No.259 of 2023 etc., batch dated 07.12.2023, these Writ Petitions are **allowed** and impugned orders passed by the respondents are set aside and the authority concerned is at liberty to issue a fresh show cause notice to the petitioners, subject to the outcome of the decision to be taken by the Government. No costs. Consequently, connected miscellaneous petitions are closed.

25.04.2024

NCC:yes/no

Index:yes/no

Internet:yes/no

Nsr



W.P.(MD).Nos.24507 of 2022 etc., Batch

To:

WEB COPY

- 1.The Regional Accounts Officer (Audit),
Regional Accounts Officer,
Department of School Education,
Thallakulam,
Madurai - 635 002.
- 2.The Chief Educational Officer,
O/o. the Chief Educational Officer,
Sivagangai District.
- 3.The District Educational Officer,
O/o. the District Educational Officer,
Sivagangai District.



WEB COPY



W.P.(MD).Nos.24507 of 2022 etc., Batch

R.N.MANJULA, J.

Nsr

W.P.(MD).Nos.24507 of 2022, 7580, 10538,
11659, 13940, 14294, 16949, 16987, 16992,
17433, 17470, 18927, 18928, 18929, 21264,
21265, 21266, 21728, 22513, 23852, 23858,
28107 of 2023, 2968, 7030 and 7620 of 2024

25.04.2024