



W.P.(MD).No.27108 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.27108 of 2024

D.Kiruba Christ Daslin,
P.G.Assistant Botony,
Dr.Samuel Higher Secondary School,
Santhapuram,
Kanyakumari District – 629 201.

... Petitioner

Vs.

1. The Chief Educational Officer,
Nagercoil,
Kanyakumari District.
2. The District Educational Officer,
(Secondary Education)
Nagercoil, Kanyakumari District.
3. The Manager/Correspondent,
Dr.Samuel Higher Secondary School,
Santhapuram,
Kanyakumari District – 629 201.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the second respondent District Educational Officer in Na.Ka.No.6287/A4/2023, dated 05.08.2024, quash the same and further direct the second respondent DEO to sanction and



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disburse forthwith the incentive increment (two advance increments) for the M.Phil Degree admissible to the petitioner.

For Petitioner : Ms.A.Amala

For R1 and R2 : Mr.T.Amjadkhan
Government Advocate

ORDER

The present Writ Petition has been filed by a P.G.Assistant (Botany) working in the third respondent School, challenging the order passed by the second respondent wherein her request for disbursement of incentive increments has been rejected on the ground that she has undertaken higher education without obtaining prior permission from the competent authority.

2. This issue is no longer *res integra* and the Hon'ble Division Bench of this Court in W.A(MD)No.1124 of 2023, dated 24.07.2023 in Paragraph No.3 has held as follows:

“3. This Court find that the issue is no-more resintegra in view of the several judgments on this issue holding that the claim of teachers for incentive increment cannot be rejected on the ground that the concerned teacher had not obtained



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prior permission of the authorities for undergoing higher education. Since the issue has been settled by precedents, this Court is unable to countenance the arguments advanced by the learned counsel for the appellants. It is true that there are several Government Order which have insisted the requirement of permission of the educational authorities for a teacher to undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher qualification is to encourage the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service while in service will have to obtain prior permission as per the Government Orders. Further it is to be noted that acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity and that will not entitle the respondents to reject the benefit to the teachers”.



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3. In view of the judgment of the Hon'ble Division Bench of this Court, the order impugned in the writ petition is set aside and the second respondent is directed to release the eligible incentive increments to the writ petitioner within a period of twelve weeks from the date of receipt of a copy of this order.

4. With the above said observations, this Writ Petition stands disposed of. There shall be no order as to costs.

14.11.2024

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

1. The Chief Educational Officer,
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2. The District Educational Officer,
(Secondary Education)
Nagercoil, Kanyakumari District.
3. The Manager/Correspondent,
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R.VIJAYAKUMAR,J.

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