



WEB COPY



W.P. No.1353 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2025

CORAM:

THE HON'BLE MR. JUSTICE M. DHANDAPANI

W.P. No.1353 of 2024
and
W.M.P. No. 1385 of 2024

R.Ramakrishnan

Petitioner

Vs

1. The Regional Accounts Officer
(Audit), Department of School Education,
Namakkal.

2.The Director
Directorate of School Education,
Chennai 600 006.

3.The Chief Educational Officer
Namakkal,
Namakkal District.

4.The Headmaster
Government Male Higher Secondary School,
Erumapatti
Namakkal District.

5.The Registrar
Vinayaka Missions University,
Salem 636 308.

6.The Secretary
University Grants Commission,
Bahadur Shah Zafar Marg
New Delhi 110 002.

Respondents



W.P. No.1353 of 2024

WEB COPY

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the records of the 4th respondent made in Proceedings in Na.Ka.No. 206/ 2022 dated 22.11.2023 and quash the same and consequently direct the respondents 1 to 4 to continue to pay the incentive increment to the petitioner

For petitioner : Ms.N. Umapathi
For respondents : Mr.P. Manorajan
Standing Counsel for R1
Ms.S. Mythreye Chandru
Spl. Govt. Pleader for RR2 to 4
Mr. A. Saravanan for R5

ORDER

This writ petition has been filed to call for the records of the 4th respondent made in Proceedings in Na.Ka.No. 206/ 2022 dated 22.11.2023 and quash the same and consequently direct the respondents 1 to 4 to continue to pay the incentive increment to the petitioner.

2. It is stated that the petitioner was initially appointed as P.G. Assistant (English) in P.U. Middle School, Oruvanthurpudur, Mohanur Union, on 15.09.2010 and thereafter promoted as Graduate Teacher on 28.06.2012. It is further averred that he had joined the M.Phil Degree course during the year 2008 and successfully completed the same in the year 2009 from the 5th



W.P. No.1353 of 2024

respondent University, namely Vinayaka Missions University, which is a Deemed to be University under Section 3 of the University Grants Commission Act, 1956. Pursuant to acquiring higher qualification, he was granted incentive increments by the respondents. While so, after a long lapse of time, the audit wing raised objections in the year 2020, alleging that the M.Phil degree obtained through distance education mode was not recognized, and consequently, proceedings dated 22.11.2023 were initiated for withdrawal and recovery of incentive increments already paid. Challenging the impugned order of rejection and recovery dated 22.11.2023 issued by the 4th respondent, this writ petition has been filed.

3. Learned counsel for the petitioner submitted that the issue involved in the present writ petition is no longer res integra, as it has been settled by the Hon'ble Division Bench of this Court in W.A. No.2328 of 2018 batch, dated 04.08.2023. He further argued that the 5th respondent University was duly recognized during the relevant period, and the petitioner completed the M.Phil degree strictly in accordance with the regulations then in force. The bar under G.O.Ms.No.91, Higher Education Department, dated 03.04.2009, applies only to entry-level appointments and not for grant of incentive increments. He pointed out that the petitioner having acquiring the higher qualification prior to



2013, he was granted incentive increment and the same is legally valid.

Therefore, the subsequent recovery proceedings dated 22.11.2023 issued by the 4th respondent, which is impugned herein, initiated after several years are arbitrary, illegal, and unsustainable.

4. In support of his contention, he particularly pointed out paragraphs Nos.33 and 34 of the judgment in W.A. No.2328 of 2018 passed by the Hon'ble Division Bench of this Court, wherein it has been held that denial of incentive increments on the basis of G.O.Ms.No.91 is impermissible. In view of the above, he prayed for setting aside the impugned order, dated 22.11.2023 and for consequential monetary benefits.

5. Per contra, the learned Special Government Pleader appearing for the respondents 2 to 4 submitted that as per G.O.Ms.No.91, Higher Education (K2) Department, dated 03.04.2009, M.Phil / Ph.D. courses should not be offered through distance education mode from the academic year 2007–2008, and such degrees are not valid. Reiterating the contents in the counter affidavit, she argued that since the petitioner obtained the M.Phil degree through distance education, the same cannot be recognized either for appointment or for conferment of incentive increments. Thus, there is no illegality or arbitrariness in the order of recovery issued by the 4th respondent, dated 22.11.2023.



6. However, learned Special Government Pleader fairly submitted that the petitioner will be entitled to incentive increment only after 2013, and not for the earlier period in the light of the decision rendered by the Division Bench of this Court, referred to supra. Hence, this Court may issue appropriate directions to the respondents in the above regard.

7. Conceding the above lines, learned counsel for respondents 1 and 5 have stated no objection for issuance of such a direction by this Court.

8. Heard the learned counsel on either side as well as perused the entire records placed before this Court.

9. This Court finds some force in the submissions made by the learned counsel for the petitioner. Admittedly, the ratio laid down by the Hon'ble Division Bench in W.A. No.2328 of 2018 etc. batch, which has been stated supra, will apply to the facts of this case and this Court is of the considered opinion that the denial of incentive increment and recovery already effected are unsustainable in law.

10. In view of the aforesaid reasons, the following directions are issued by this Court :-

- i) the impugned proceedings dated 22.11.2023 issued by the 4th respondent is hereby set aside.



W.P. No.1353 of 2024

ii) the respondents are directed to grant incentive increments to the petitioner from the year 2013 onwards, if not already granted.

iii) This Court makes it clear that if any amount has been recovered, the same shall be refunded to the petitioner and on the other hand, if any excess amount has been paid, the same shall be adjusted by the respondents prospectively after 2013, in accordance with law.

iv) The above exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

11. The writ petition stands disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

04.12.2025

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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W.P. No.1353 of 2024

M. DHANDAPANI, J.

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To

1. The Regional Accounts Officer
(Audit), Department of School Education,
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