



W.P.No.3825 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 10.02.2025

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.3825 of 2025

and

W.M.P.Nos.4236 and 4238 of 2025

M.Poomagal

.. Petitioner

Vs.

1. The Director of School Education,
Directorate of School Education,
DPI Campus, College Road,
Chennai – 600 006.
2. The Divisional Accounts Officer (Audit),
School Education Department,
LLA Building 3rd Floor,
Big Bazaar Street, Town Hall,
Coimbatore – 641001.
3. The Chief Educational Officer,
Thiruvannamalai,
Thiruvannamalai District.
4. The Headmaster,
Government Girls Higher Secondary School,
Vandavasi,
Thiruvannamalai District – 604 408.

.. Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent in proceedings having Ref.No.Na.Ka.No.934/E19/2017, dated 18.04.2017 raising audit objection to the grant of incentive to the petitioner who is working as B.T. Assistant in the Government Higher Secondary School, Cholavaram, Vellore District, for the M.Phil Degree obtained through distance mode and ordering recovery of the incentive granted to the petitioner from the salary of the petitioner from 18.01.2013 and quash the same as arbitrary and consequently direct the first respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through distance mode along with the petitioner's salary.

For Petitioner : Ms.K.Chandra

For Respondents : Mrs.Mythreye Chandru,
Special Government Pleader

ORDER

This Writ Petition has been filed in the nature of a Certiorarified Mandamus with respect to the audit objection dated 18.04.2017, relating to the grant of incentive to the petitioner, who was working as a B.T. Assistant in Government Higher Secondary School, Cholavaram, Vellore District, for the M.Phil degree obtained through distance education and ordering recovery of the incentive granted to the petitioner from his salary from 18.01.2013.



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2. In the affidavit filed in support of the writ petition, it had been contended that the petitioner had been granted permission by the Headmaster of the Government Higher Secondary School, Killputhur, Tiruvannamalai District, to pursue M.Phil degree from Vinayaka Missions University at Salem in the year 2008-2009. It must be mentioned that the petitioner was working as a B.T. Assistant on and from 05.03.2007. Thereafter, the petitioner also successfully completed the M.Phil degree. The petitioner was granted a second incentive for the M.Phil degree with effect from 18.01.2013.

3. The second respondent thereafter issued proceedings, raising an objection to the grant of incentive for obtaining the M.Phil degree through distance education from Vinayaka Missions University at Salem. In pursuance of such notice issued, the impugned order came to be passed, directing recovery of incentive pay from the petitioner herein. The issue is no longer *res integra*. The Division Bench of this Court in W.A.Nos.2328 of 2018, etc., batch, wherein the same issue was examined, observed, and passed the following order:-



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“30. Here, the fact remains that, insofar as the Vinayaka Mission's University is concerned, it has been given the recognition or approval by the DEC, IGNO by order dated 28.02.2007.

31. When that being so, even according to the audit team, since these teachers are entitled to get their advance incentive increment as their increment has been ordered already and was enjoyed by them it need not be stopped or cancelled.

35. In the result, the following orders are passed in these writ appeals:

? That the impugned order passed by the writ Court dated 06.09.2018 is set aside. As a sequel, the impugned order that was challenged before the Writ Court in the respective petitions is also set aside to the extent that those teachers who had studied in the Vinayaka Mission's University during the relevant point of time i.e., 2007 to 2009 since had acquired the qualification during the period which the University also enjoyed the approval or recognition from the DEC, IGNO, the said objection raised by the audit Department would not be sustained. Therefore, on that ground, the incentive increment already allowed to these teachers need not be disturbed. If the increment



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already been allowed to these teachers have been cancelled or stopped by virtue of the order, which is impugned herein, the same shall be restored and the arrears to that effect shall be calculated and be paid to the teachers/appellants. To that extent, all these writ appeals are allowed. No costs. Connected miscellaneous petitions are closed.”

4. The same order accrues to the favour of the petitioner herein. The impugned order dated 18.04.2017 is set aside and the petitioner, having acquired the qualification during the period when the University also enjoyed approval or recognition from the DEC, IGNOU, it is made clear that she is entitled to the grant of incentive. The order of recovery is hereby quashed.

5. In the result, this Writ Petition stands allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Index: Yes/No
Internet: Yes/No
Neutral Case Citation: Yes/No
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