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W.P. No.1679 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.1679 of 2024

S.V.Pari

Petitioner

Vs

1. The State of Tamil Nadu
Rep by the Secretary to Government
School Education Department
Fort St. George, Chennai 600 009.

2.The Director of School Education
College Road,
Chennai 600 006.

3.The Chief Accounts Officer (Audit)
Directorate of School Education
College Road, Chennai - 600 006.

4.The Regional Accounts Officer (Audit)
Education Department,
Coimbatore

5.The District Educational Officer
Salem District

6.The Head Master
Government Higher School,
Erumapalayam, Salem.

7.Vinayaka Missions Research Foundation
Rep. by its Authorised Person
Sankari Main Road (NH-47) Ariyanoor,
Salem - 636 308

Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to call for the records pertaining to the impugned communication of the 3rd respondent in A. Thi. Mu. No 020989 / A.K. Tha / 2023 dated 09.06.2023 and quash the same and consequently direct the 3rd respondent to refund the amount deducted from the retrial benefits of the petitioner by considering the petitioner's representation dated 25.04.2023.

For petitioner : Mr.B. Bharath Kumar
for M/s.K.V. Law Firm
For respondents : Mr.P. Manorajan
Standing Counsel for RR3 and 4
Ms.S. Mythreye Chandru
Spl. Govt. Pleader for RR1, 2, 5 and 6.
Mr. A. Saravanan for R7

ORDER

This writ petition has been filed to call for the records pertaining to the impugned communication in A. Thi. Mu. No 020989 / A.K. Tha / 2023 dated 09.06.2023 and quash the same and consequently direct the 3rd respondent to refund the amount deducted from the retrial benefits of the petitioner by considering the petitioner's representation dated 25.04.2023.

2. It is stated that the petitioner was initially appointed as B.T. Assistant (Maths) on 08.02.2008 and retired from service on attaining the age of superannuation on 31.03.2023 at Government Higher School, Erumapalayam,



Salem. It is further averred that during his service, he pursued M.Phil course at the 7th respondent University and completed the same on 25.04.2015. It is his contention that as per G.O. No.18 issued by the Education(E2) Department, dated 18.01.2013, he was entitled for two increments and as such he was granted two increments with effect from 26.04.2015. It is his grievance that after several years that too at the verge of superannuation, relying upon G.O.Ms.No.91 dated 03.04.2009, the 4th respondent cancelled the incentive increment and ordered recovery of the excess amount. Consequently, an order was passed to recover the increment amounts that were awarded to him from 26.04.2015 and a sum of Rs.3,72,859/- was ordered to be recovered from the petitioner. It is the contention of the petitioner that as per the proposition of law, he is entitled to two increments and thus, the order of recovery was passed without properly appreciating the materials on record. Despite the above settled position, the 3rd respondent had adjusted the above amount in the retiral benefits, prior to his retirement. When that being so, he submitted a representation dated 25.04.2023 to the 3rd respondent, though very many representations were addressed to respondents 3 to 6, but the same were not considered and the impugned order in A. Thi.Mu.No.020989/A.Ka.Tha/2023, dated 09.06.2023 was passed. In such circumstances, left with no other remedy, thereby challenging the impugned recovery order dated 09.06.2023, the petitioner was constrained to file this writ petition.



3. Learned counsel for the petitioner reiterated the lines stated in the affidavit and argued that the petitioner is entitled to two increments for acquiring higher qualification. He pointed out 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. Also, he submitted that in similar circumstances, this Court vide ***order dated 21.11.2023 in W.P. (MD) No.27596 of 2023 in the case of R.Gunasekaran vs. The Government of Tamil Nadu and 4 others*** directed the respondents therein to refund the incentive increment to the petitioner. Therefore, the impugned recovery order dated 09.06.2023 is arbitrary, illegal, and unsustainable and sought quashment of the same.

4. Per contra, learned Special Government Pleader appearing for the respondents 1, 2, 5 and 6 submitted by reiterating the contents of the counter affidavit and stated that since the petitioner acquired higher qualification through distance education mode, he is not entitled to incentive increment prior to 2013, in view of G.O.Ms.No.91. However, she fairly conceded that respondents may be directed to grant incentive increment prospectively from the year 2013 onwards. In view of the above, this Court may issue appropriate directions to the respondents.



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5. Heard the learned counsel on either side and perused the entire records.

6. The sole issue for consideration is whether G.O.Ms.No.91 dated 03.04.2009, which deals with eligibility for appointment, can be relied upon to deny incentive increments already granted for higher qualification.

7. This Court finds that the issue is squarely covered by the Division Bench judgment of this Hon'ble Court, wherein it has been held that G.O.Ms.No.91 has no application to grant of incentive increments, and that denial of such increments on the said basis is unsustainable. In view of the above binding precedent, the impugned order dated 09.06.2023 passed by the respondents cannot be sustained

8. In view of the reasons aforesaid, this Court issues the following directions :-

a) The impugned recovery order dated 09.06.2023 issued by the office of the Commissionerate, School Education, Chennai is hereby set aside.

b) The 2nd respondent is directed to communicate this order to the office of the Commissionerate, School Education, Chennai.

c) The 2nd and 3rd respondents are directed to grant incentive increment to the petitioner from the year 2013 onwards, in accordance with law, and further directed to refund the admissible incentive increment, retained by them.



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

9. The writ petition is disposed of, with the above directions. No costs.

04.12.2025

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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