



W.P.No.3761 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.3761 of 2023

P.M.Alphonse

...Petitioner

-Vs-

1.The Commissioner of School Education,
DPI Campus, College Road,
Chennai – 600 006.

2.The Chief Educational Officer,
Chengalpet District,
Chengalpet.

3.The District Educational Officer,
Maduranthagam Educational District,
Maduranthagam,
Chengalpet District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.5158/Aa3/2021 dated 30.11.2021 and to quash the same and consequently directing the respondents to sanction incentive increment to the petitioners for acquiring M.Phil., degree as per G.O(1D)No.18, School Education Department dated 18.01.2013 in ratification of M.Phil., degree obtained by the petitioner in the year 2013,



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without entry in the service record, with all consequential and other attendant benefits including arrears of salary, within a time frame to be fixed by this Court.

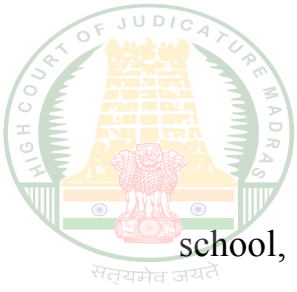
For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : Mr.T.M.Rajangam,
Government Advocate

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.5158/Aa3/2021 dated 30.11.2021 and to quash the same and consequently direct the respondents to sanction incentive increment to the petitioners for acquiring M.Phil., degree as per G.O(1D)No.18, School Education Department dated 18.01.2013 in ratification of M.Phil., degree obtained by the petitioner in the year 2013, without entry in the service record, with all consequential and other attendant benefits, including arrears of salary, within a stipulated period.

2. The petitioner was initially appointed as B.T.Assistant (Maths) in School Education on 16.09.2005. While so, he acquired higher qualification of M.Phil., degree after obtaining permission from the Headmaster of the



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school, whereas the same has not been entered in the Service Record since the M.Phil., degree is not relevant for promotion or for incentive.

3. The Government issued orders in G.O(1D).No.18 School Education Department dated 18.01.2013 to grant incentive increment for M.Ed., or M.Phil., or Ph.D., degree on condition that a teacher is entitled for two incentive increments in his entire service career. Since M.Ed., degree was dispensed with in Correspondence Course, the Government has decided to sanction incentive increment for M.Phil., or Ph.D., degree as per G.O(1D).No.18 dated 18.01.2013.

4. Learned counsel appearing for the petitioner would submit that the Petitioner submitted representation seeking for an incentive increment for having acquired M.Phil., degree as per G.O.(1D).No.18 dated 18.01.2013, whereas the same has not been considered in view of the fact that there was no entry in the Service Record for the same. The Government issued orders in Govt.Letr.(1D).No.356/School Education dated 02.11.2007 ratifying the M.Phil., degree obtained by teachers in the category of Headmaster and P.G.Assistant without availing permission from the department with



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instructions that in the event of any higher qualifications acquired in the future, it will be resulting in disciplinary action against the concerned teacher. When the Government has decided to grant an incentive increment for M.Phil., degree in respect of B.T. Assistant teachers as per G.O(1D).No.18 dated 18.01.2013, the M.Phil., degree obtained by him without prior permission ought to be ratified by the department.

5. Thereafter, the Petitioner submitted representation to the department seeking a grant of incentive increment. The 1st Respondent issued proceedings in Na.Ka.No.069381/K/E1/2018 dated 21.10.2020 calling for the list of teachers who acquired higher qualifications prior to 09.03.2020 in order to sanction an incentive increment for the same. However, the Petitioner was not considered for grant of an incentive increment even as per the proceedings of 1st Respondent dated 21.10.2020 on the premises that the Petitioner has not availed permission to study for an M.Phil., degree.

6. The Petitioner filed a writ petition before this Court in W.P.No.7958 of 2021, wherein this Court passed orders dated 29.03.2021, directing the respondents to consider the representation of the petitioners dated

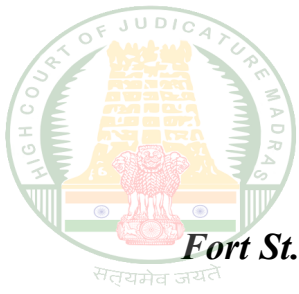


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03.10.2013 and 08.11.2013 and pass orders within a period of 60 days from the date of receipt of a copy of the order.

7. Consequently, the 2nd Respondent passed the impugned order dated 30.11.2021 rejecting the claim of the petitioner for an incentive increment for acquiring an M.Phil. degree on the premises that he was not in a position to forward the proposal to the Government for granting an incentive increment for acquiring M.Phil. degree qualification. It is further stated that as per G.O.Ms.No.37 P&AR Department dated 10.03.2020, the scheme of sanction of an incentive increment for acquiring higher qualification is dispensed with, with immediate effect. Aggrieved by the same, the petitioner has filed this Writ Petition.

8. Learned counsel appearing for the petitioner would then place reliance on the judgments passed by the Division Bench of this Court in **W.A.(MD)No.813 of 2021 (*The Director of School Education, DPI Campus, College Road, Chennai – 600 006 and 2 others Vs. G.Anandhi and another*)** dated 16.04.2021 and **W.A.(MD)No.1052 of 2024 (*The State of Tamil Nadu, Rep. by its Secretary, Department of School Education,***



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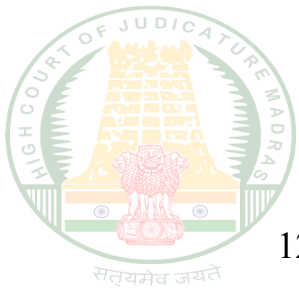
Fort St. George, Chennai – 600 009 and 6 others Vs. A.Govindasamy and 4 others dated **21.06.2024**.

9. A counter affidavit was filed on behalf of the third respondent dated 20.07.2023.

10. Heard both sides and perused the materials available on record.

11. The judgment of the Division Bench of this Court relied on by the learned counsel for the petitioner in **W.A.(MD)No.813 of 2021** (*The Director of School Education, DPI Campus, College Road, Chennai – 600 006 and two others Vs. G.Anandhi and another*) dated **16.04.2021**, wherein this Court held as follows:

“4. As soon as the order dated 17.06.2017, impugned in the writ petition was communicated to the management, the management sent representations on 19.01.2019, to the third appellant stating that the management was not aware that prior permission should be obtained from the department before permitting any of their teachers acquire higher qualification. Therefore, they pleaded ignorance and pleaded for appropriate orders to be issued. Thereafter, the Director of School Education by proceedings dated 18.02.2019, has referred to G.O.Ms.No.101 dated 18.05.2018, where under power was granted to the Chief Educational Officer of the district for granting permission to teachers to acquire higher qualification.”



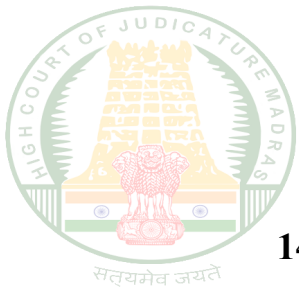
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12. Another judgment of the Division Bench of this Court relied on by the learned counsel for the petitioner in **W.A.(MD)No.1052 of 2024** (*The State of Tamil Nadu, Rep. by its Secretary, Department of School Education, Fort St.George, Chennai – 600 009 and 6 others Vs. A.Govindasamy and 4 others*) dated **21.06.2024**, wherein this Court held as follows:

“10. We had an occasion to deal with the similar kind of issue in respect of granting incentive increment for the persons, who had acquired additional qualification prior to issuance of G.O.(Ms)No.37, in W.A.(MD)No.975 of 2024, dated 12.06.2024 and held as follows:

“8.G.O(Ms)No.37 does not operate retrospectively and the purposive interpretation of Clause 6(vi) in the Government Order can only be that the Teachers, who had all acquired the higher qualification prior to the issuance of the Government Order and if otherwise qualified are eligible for sanction of the incentive increment. If the interpretation made by the learned Additional Government Pleader is to be accepted, then the very object of the inclusion of clause 6(vi) in the Government Order becomes redundant. As such, we have no hesitation to hold that the Teachers, who, after obtaining necessary permission from the authorities, had acquired higher qualification, ie., wherever the degrees had been awarded prior to issuance of G.O.(Ms)No.37, dated 10.03.2020, are entitled for advance increment for the higher qualification, if it is within the limit of two incentive increments in their career.””

13. The above judgments passed by the Division Bench of this Court in **W.A.(MD)No.813 of 2021** and **W.A.(MD)No.1052 of 2024** are squarely applicable to this case.



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14. In view of the above ratios laid down by the Division Bench of this Court regarding seeking prior permission from the department before permitting any of their teachers to acquire higher qualifications in W.A.(MD)No.813 of 2021, and in regard to the prospective application of G.O.Ms.No.37 in W.A.(MD)No.1052 of 2024, the impugned proceedings issued by the 2nd respondent in Na.Ka.No.5158/Aa3/2021 dated 30.11.2021 is liable to be quashed accordingly the same is hereby quashed. The respondents are directed to sanction incentive increment to the petitioners for acquiring M.Phil., degree as per G.O(1D)No.18, School Education Department dated 18.01.2013 in ratification of M.Phil., degree obtained by the petitioner in the year 2013, without entry in the service record, with all consequential and other attendant benefits, including arrears of salary within a period of eight weeks from the date of receipt of a copy of the order.

In the result, the writ petition stands allowed with the above observations and direction. No costs.

10.01.2025

cda

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation : Yes / No



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To

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J.SATHYA NARAYANA PRASAD, J.

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