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WP No.11680 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-04-2025

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

WP NO. 11680 OF 2021

and

WMP NO. 12435 OF 2021, WMP No.12437 & WMP No.12434 of 2019

1. A.Paramanantham

S/o.M.Appa Pillai, Perunthalaikudi
Village, Thevur Post, Kilvelur Taluk,
Nagapattinam District- 611109.

Petitioner(s)

Vs

1. The Secretary to Government
School Education Department, Fort St,
George, Chennai- 600 009.

2.The Director of School Education
DPI Buildings, College Road, Chennai-
600006.

3.The Regional Accounts Officer
(Audit)
O/o. School Education Department,
Madurai- 625002.

4.The Chief Education Officer
Nagapattinam District.

5.The Head Master



Thevur Govt. Higher Secondary
School, Thevur, Nagapattinam- 611109.

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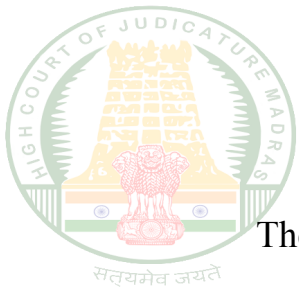
Respondent(s)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuing a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed in Na.Ka.No 2680/ A6/ 2020 dated 05.01.2021 passed by 3rd respondent herein and consequential impugned orders passed in Na.Ka.No.39/ 2021 dated 09.03.2021 and Na.Ka.No. 44/ 2021 dated 17.04.2021 and Na.Ka.No.44/2021 dated 26.04.2021 by the 5th respondent herein and quash the same as being illegal, arbitrary, unconstitutional and consequently direct the respondent nos.1 to 5 to disburse the petitioners salary along with incentive increment for completion of higher qualification without any recovery for the post of Physical Education Teacher.

For Petitioner(s): M/s.T.sundaravadanam

For Respondent(s): Mrs.P.Raja Rajeswari
Government Advocate

ORDER



The writ petition has been filed to quash the impugned orders passed by the 3rd respondent in Na.Ka.No 2680/ A6/ 2020 dated 05.01.2021 and consequential impugned orders passed in Na.Ka.No.39/ 2021 dated 09.03.2021, Na.Ka.No. 44/ 2021 dated 17.04.2021 and Na.Ka.No.44/2021 dated 26.04.2021 by the 5th respondent herein and quash the same as being illegal, arbitrary, unconstitutional and consequently direct the respondent Nos.1 to 5 to disburse the petitioners salary along with incentive increment for completion of higher qualification without any recovery of the incentive increment paid to the petitioner.

2. The petitioner was appointed as a Physical Education Teacher on 01.06.2006. He has secured M.P.Ed., and M.Phil degrees during the years 1999 and 2003 respectively and an incentive increment was allowed to him for the higher qualifications obtained by him. In view of the audit objection raised by the third respondent on 05.01.2021 the incentive already allowed to the petitioner has been cancelled with a demand to refund the incentive increment so far availed by the petitioner.

3. Mr.T.Sundaravadanam, the learned counsel for the petitioner, submitted that as per G.O.Ms.177, School Education Department, dated 13.10.2016 the petitioner is entitled to the second incentive increment from the date of acquiring the qualification and not from the date of issuance of the Government



Order. In the impugned order it has been stated that the incentive has to be given only from the date of issuance of the Government Order and not from the date of acquiring the qualification. The learned counsel for the petitioner submitted that as per the Government Order in G.O.Ms.177, School Education Department, dated 13.10.2016, persons who are already getting one increment in view of the higher qualification is entitled to get an another incentive increment from the date of the Government Order. It is further submitted that the respondent has misconstrued the said Government Order in view of the audit objection raised by presuming that the Government order is applicable from the date of issuance of the order and issued an order to refund one increment alone prior to the issuance of G.O.Ms.177, School Education Department, dated 13.10.2016.

4. The petitioner is found to be qualified to get first increment as per the orders issued in G.O.Ms.No.324 Education, Science & Technology Dept., dated 20.12.1993. The entitlement of additional one increment alone has to be sanctioned from the date of issuance of G.O.Ms.177, School Education Department, dated 13.10.2016 and it cannot be presumed that the petitioner is entitled even to the first increment from the date of issuance of the said Government Order. In this regard it is appropriate to refer the earlier judgment rendered by this Court in similar such case in W.P.(MD) No.14861/2018 dated 02.02.2023. In the said judgment it has been held as under:

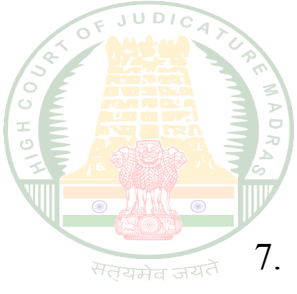


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“ 7. The learned Government Advocate appearing for the respondent submitted that in G.O.Ms.177, School Education Department, dated 13.10.2016, it has been categorically stated that the employees would be getting a second incentive increment from the date of the issuance of the G.O.Ms.No.177, School Education, dated 13.10.2016. However, the learned counsel for the petitioner submitted that it says that the second incentive increment would be eligible from the date of issuance of order and not for the first incentive increment, since the petitioner is claiming the first incentive increment for M.Phil., degree, the said G.O. Is not applicable and only G.O.Ms.No.324. Dated 25.04.1995 is applicable. Therefore, this Court is of the considered opinion that the petitioner is eligible as per G.O.Ms.No.324 dated 25.04.1995.”

5. The respondent has raised similar objection by filing a Writ Appeal in W.A.No.2084/2024. In the said judgment the Division Bench has held that the petitioners who have already availed the benefit of G.O.Ms.No.324 dated 25.04.1995 cannot be asked to refund the same by wrongly construing the contents of the subsequent G.O.Ms.177, School Education Department, dated 13.10.2016 and the writ appeal has been dismissed.

6. In view of the above findings already rendered and has been followed in so many cases of similarly placed persons, I feel the impugned recovery order issued by the fifth respondent is illegal and the impugned order is liable to be quashed.



7. In the result, the Writ Petition is allowed and the impugned order passed by 3rd respondent in Na.Ka.No 2680/ A6/ 2020 dated 05.01.2021 and the orders passed by the fifth respondent in Na.Ka.No.39/2021 dated 09.03.2021, Na.Ka.No. 44/ 2021 dated 17.04.2021 and Na.Ka.No.44/2021 dated 26.04.2021 are hereby quashed and the respondents Nos.2 to 5 are directed to disburse the petitioner's salary along with incentive increment for completion of higher qualification without any recovery of the incentive increment paid to the petitioner.

08-04-2025

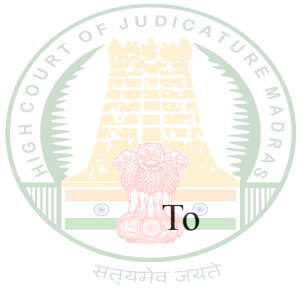
Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. The Secretary to Government
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George, Chennai- 600 009.
2. The Director of School Education
DPI Buildings, College Road, Chennai-
600006.
3. The Regional Accounts Officer
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R.N.MANJULA J.

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