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W.A.No.2747 of 2023



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2025

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

W.A.No.2747 of 2023

and

C.M.P.Nos.23078 of 2023 & 9630 of 2024

- 1.The Government of Tamil Nadu,
Represented by its Secretary,
School Education Department,
Fort St. George,
Chennai - 600 009.
- 2.The Director of Elementary Education,
College Road,
Chennai - 600 006.
- 3.The District Education Officer,
Chengalpet,
Kanchipuram District - 603 002.
- 4.The Block Education Officer,
Kattangulathur Panchayat Union,
Kanchipuram District.
- 5.The Headmaster,
Panchayat Union Primary School,
Karanaiputhuchery, (Near Urapakkam)
Kattankulathur Panchayat Union,
Kancheepuram District.

...

Appellants

versus



G.Saraswathi,
W/o.V.Balakrishnan.
No.1, Vasuki Ammaiya Street,
Thiruvalluvar Nagar,
Pammal, Chennai - 600 075.

...

Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order passed in W.P.No.2043 of 2019 dated 28.07.2022.

For Appellants : Mr.U.M.Ravichandran
Special Government Pleader

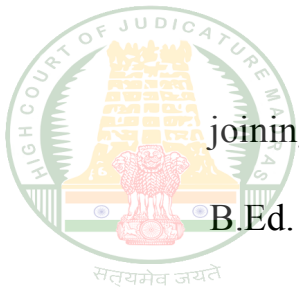
For Respondent : Mr.P.Ebenezer Paul

J U D G M E N T

(Judgment of the Court was made by **R.SUBRAMANIAN, J.**)

Challenge in this appeal is to the order of the learned single Judge made in W.P.No.2043 of 2019 dated 28.07.2022, directing the Government to reconsider the plea of the respondent for grant of an advance incentive increment for the higher qualifications of B.Ed. and M.A. (Economics) acquired by the respondent.

2. The respondent joined as a Secondary Grade Teacher on 14.12.2009. She had obtained an undergraduate degree in B.A. (Economics) in October 2006 and had completed Diploma in Teacher Education. After



joining the services, she completed M.A.(Economics) in May 2010 and B.Ed. in December 2015.

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3. The respondent sought for incentive increments for the higher qualifications that she had obtained and the same was rejected by order dated 14.12.2018. The said order was the subject matter of challenge on the ground that she is not entitled to incentive increments, relying upon a letter of the Director of School Education dated 24.08.2016. The learned single Judge found that the letter dated 24.08.2016 overwrites the policy decision of the Government in G.O.(Ms.)No.324 Education, Science and Technology Department dated 25.04.1995 and therefore the same cannot be relied upon to reject the claim for incentive increments.

4. On the said findings, the learned single Judge directed the appellants to consider the claim of the respondent for grant of incentive increment for the higher qualifications, namely M.A.(Economics) and B.Ed. obtained by her in the years 2010 and 2015.

5. Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the appellants would vehemently contend that the letter dated



24.08.2016 was issued pursuant to G.O.(Per)No.134 School Education (Gz)

Department dated 15.06.2007 and therefore the same is perfectly valid.

Hence, the learned single Judge was not right in directing the Government to ignore the said letter and pass orders. He would also contend that subsequently in the year 2020 the rules have been amended by altering the qualifications for appointment of Post-Graduate Teachers.

6. Contending contra, Mr.P.Ebenezer Paul, learned counsel for the respondent would submit that G.O.(Per)No.134 dated 15.06.2007 does not deal with incentive increments. It was the Government order that was passed to regulate promotions in the Department and aid of such Government Order cannot be invoked for denying incentive increments which the respondent would be otherwise entitled to as per the scheme. The scheme of incentive increments was introduced for the first time in G.O.(Ms.)No.42 School Education Department dated 10.01.1969.

7. Thereafter, successive State Governments expanded the scope of G.O.42 and whenever there was an attempt to narrow the scope to restrict the grant of incentive increments, the Associations of Government School Teachers were successful in negotiating with the successive Governments to



have the incentive increments restored. One such instance is when the Government passed G.O.(Ms.)No.624 Education dated 13.07.1992, which restricted the grant of incentive increments and made it applicable only to higher qualifications, which will be actually useful to the students.

8. Unfortunately, after about 3 years, the Government went back again and passed G.O.(Ms.)No.324 dated 25.04.1995 which apart from recalling the conditions imposed by para 3 of G.O.(Ms.)No.624 dated 13.07.1992, extended the benefit of incentive increments for higher qualifications in subjects that are part of the higher secondary syllabus, thereby widening the grant of incentive increments to higher qualifications obtained in subjects like Economics or Commerce or Computer Science, which were not taught in Standards 1 to 8 for which the Secondary Grade Teacher was appointed.

9. Thereafter, the Government again issued G.O.(Per)No.134 dated 15.06.2007, which related to promotion. There again, the Government extended the promotional avenues to Secondary Grade Teachers to become Middle School Headmasters or Elementary School Headmasters by just obtaining a Bachelor's Degree irrespective of the subject. This malady was



sought to be cured by G.O.(Per)No.134 dated 15.06.2007, wherein the Government decided to restrict promotion only to those who had obtained graduation in subjects which are taught in the pre-primary, elementary and middle school. Such a restriction was not extended to the grant of incentive increments.

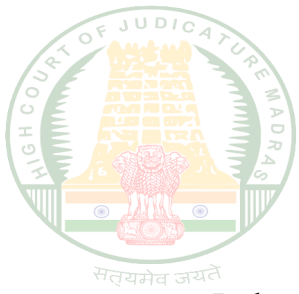
10. However, the Director of Elementary Education issued a clarificatory letter on 24.08.2016 restricting the benefit of incentive increments only to those subjects that are normally taught in Schools, namely, Tamil, English, Mathematics, Science and Social Science. The said letter specifically excluded degrees obtained in Commerce, Economics and Computer Science etc., from being considered for grant of incentive increments. This letter was put to challenge in the writ petition.

11. The learned single Judge rightly concluded that this letter dated 24.08.2016 overwrites or overreaches the effect of G.O.(Ms.)No.324 dated 25.04.1995. The learned single Judge invoked the principle that a Government Order issued under the orders of the Governor cannot be rewritten by a head of the Department.



12. Though Mr.U.M.Ravichandran, learned Special Government Pleader would vehemently contend that this is only a clarification, we are unable to accept his submission. When G.O.(Ms.)No.324 dated 25.04.1995 specifically declares that all higher qualifications obtained in subjects which form part of the higher secondary syllabus shall be entitled to grant of incentive increments, the Director of Elementary Education, by his letter, cannot narrow down the scope of the Government Order.

13. Today the entire scheme for incentive increments has been withdrawn but the issue as to whether the said withdrawal can only be prospective and it cannot operate retrospectively still lingers. We do not see the need to go into the said issue as it is not germane to the facts on hand. Here the respondent has completed M.A.(Economics) in May 2010 and B.Ed. in December 2015. Therefore, she is entitled to two sets of advance incentive increments for these two higher qualifications obtained by her. The question of whether M.A.(Economics) would be useful to the School students or not cannot be gone into by us, as the Government, in its wisdom, had in G.O.(Ms.)No.324 dated 25.04.1995, consciously decided to confer the benefit of the incentive increments on all teachers who obtained higher qualifications in any subject found in the higher secondary syllabus.



14. Therefore, we are unable to fault the order of the learned single Judge. The Writ Appeal therefore fails and it is accordingly ***dismissed***.

There will be a direction to the appellants to grant two (2) sets of incentive increments, one for B.Ed. qualification and another for M.A.(Economics), to the respondent with effect from the date of acquisition of the qualifications and pass orders within a period of eight (8) weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petitions are closed.

(R.S.M., J.) (G.A.M., J.)
28.03.2025

Speaking order

Index : No

Neutral Citation : No

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