



WEB COPY



W.P.No.28113 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.28113 of 2023

K.Sathyapriya

...Petitioner

-Vs-

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

2.The Secretary to Government,
Finance Department,
Fort St.George, Chennai – 600 009.

3.The Director of Elementary School,
College Road,
Chennai – 600 006.

4.The District Educational Officer (Elementary),
Tiruppur, Tiruppur District.

5.The Block Educational Officer,
Avinasi Panchayat Union,
Avinasi, Tiruppur 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 Mandamus, directing the respondents to grant second set of incentive increment to the petitioner for acquiring M.A. degree qualification from the day following the



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last date of examination i.e., on 29.05.2017 with arrears of increment as per the scheme of incentive increment which is available before issue of G.O.Ms.No.37, Personnel and Administrative Reforms Department dated 10.03.2020 and pass such further orders.

For Petitioner : Mr.R.Saseetharan

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

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, directing the respondents to grant a second set of incentive increments to the petitioner for acquiring M.A. degree qualification from the day following the last date of examination, i.e., on 29.05.2017 with arrears of increment as per the scheme of incentive increment, which is available before the issue of G.O.Ms.No.37, Personnel and Administrative Reforms Department dated 10.03.2020.

2. The petitioner was initially appointed as Secondary Grade Teacher on 04.12.2006, as per the order of the District Elementary Educational Officer, Coimbatore District dated 01.12.2006 at Panchayat Union Primary School, A.Chettipalayam, Tiruppur Panchayat Union, then Coimbatore District, as per the seniority of registration before the



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Employment Exchange. The petitioner was transferred to Avinasi Panchayat Union on 31.05.2008 and has been continuing as Secondary Grade Teacher in Avinasi Panchayat Union, Tiruppur District.

3. The Government of Tamil Nadu has passed number of Government Orders covering several categories of Teachers such as P.G.Assistant, B.T. Assistant, Headmaster High School, Headmaster Higher Secondary School, and Vocational Instructors and Physical Directors as well as granting Incentive increments for acquiring higher qualifications. In all the Government Orders, the Government of Tamil Nadu has stated that in the entire service, a Teacher is entitled for incentive increments at the tune of 2 and not more.

4. However the Government of Tamil Nadu by G.O.Ms.No.37 dated 10.03.2020 has taken a policy decision to abolish the Scheme of award of incentive increments to the Teachers and further taken a policy decision that a Teacher who acquired qualification before 10.03.2020 is entitled for incentive increment as per the then existing Government Orders. The Government of Tamil Nadu has abolished the Scheme of incentive increments prospectively from 10.03.2020. Thereafter the Government of



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Tamil Nadu has issued a G.O.Ms.No.116 P&AR Department dated 15.10.2020 in which the Government of Tamil Nadu has issued a direction to all the appointing authorities to forward the papers relating to the grant of incentive increments with a report to the Government to the Finance Department for verification and sanction and fixed a cut-off date as 31.03.2021.

5. The petitioner acquired three years B.A. degree and thereafter acquired B.Ed. degree in December 2014 through the same University. The Assistant Elementary Educational Officer in his proceedings dated 23.11.2016, had granted the incentive increment to the petitioner for B.Ed. degree from 03.01.2015, i.e., from the day following the last day of the examination of B.Ed. degree, since the petitioner wrote the examination in December 2014.

6. Thereafter the petitioner acquired M.A. degree in English through Annamalai University by undergoing the course from 2015-2016, after obtaining permission from the Block Educational Officer, Avinasi Panchayat Union, Tiruppur District in Na.Ka.No.80/A1/2016 dated 08.02.2016. The



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petitioner made a representation on 05.04.2019 to the respondents to grant second set of incentive increments for acquiring an M.A. degree.

7. The Assistant Elementary Educational Officer, Avinasi Panchayat Union, sought genuineness of the petitioner's M.A. degree from Annamalai University. By the letter dated 06.08.2018, the Annamalai University had granted the genuineness certificate for M.A. degree in English. Then on 24.10.2019, the Block Educational Officer, Avinasi Panchayat Union, has granted the petitioner an incentive increment for an M.A. degree and entered the same in the Service Register since no necessary proceedings have been issued so far and the petitioner has not been granted incentive increments for the M.A. degree in the pay scale.

8. Learned counsel appearing for the petitioner would submit that the G.O.Ms.No.42 dated 10.01.1969, G.O.Ms.No.1032 dated 22.06.1971 and G.O.Ms.Nos.1023 and 1024 dated 09.12.1993, stated that a Teacher in his/her entire service is entitled for 2 sets of incentive increments. The said right and the benefit are conferred by the said Government Orders and the same is saved by the G.O.Ms.No.37 dated 10.03.2020 under which the Scheme of incentive increment is abolished only from 10.03.2020 with the saving clause



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that a Teacher who acquired incentive increment before 10.03.2020 is entitled for incentive increment as per the existing Government Orders.

9. Learned counsel would further submit that the Government of Tamil Nadu has also directed the appointing authorities to send the particulars under the G.O.Ms.No.116 dated 15.10.2020, but so far the petitioner has not been granted the incentive Increment for an M.A. degree. The failure on the part of the respondents in not granting the incentive increments for M.A. degree is a denial of rights and benefits which is accrued to the petitioner under the above said two Government Orders and the denial is arbitrary and discriminatory. The Government is granting incentive increments as per its own commitment in the above said Government Orders and it is promisorily stopped from denying the same.

10. Learned counsel appearing for the petitioner would submit that the petitioner has acquired an M.A degree qualification in the year 2017, i.e., on 29.05.2017, but the second increment was not granted to the petitioner. Hence he approached this Court by way of filing the writ petition.

11. Learned counsel for the petitioner would then place reliance on the



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order passed by this Court in a similar matter 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 others Vs.
A.Govindasamy and others) dated 21.06.2024).

12. A counter affidavit was filed on behalf of the respondents dated 31.01.2024.

13. Learned Government Advocate appearing for the respondents would submit that the Government further issued G.O.Ms.No.95 Human Resources Management (FR-I) Department dated 26.10.2023, according to which all pending cases of incentive increments as on 10.03.2020 and arising after that also will be disposed of as per the new scheme of lump sum payment only and not in the earlier scheme of incentive increment in salary. In view of the policy decision of the Government, the proposals of the petitioner have to be dealt with the provisions laid down in G.O.Ms.No.95 Human Resources Management (FR-I) Department dated 26.10.2023 and not as per the earlier scheme of incentive increment in salary.

14. Accordingly the prayer of the petitioner to sanction an incentive



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increment for M.A., degree as per the scheme before the issue of G.O.Ms.No.37 Personnel and Administrative Reforms (FR- IV) Department dated 10.03.2020 is not sustainable in law and the Writ Petition is not maintainable in law and is liable to be dismissed.

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

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

“12. In the instant case, the Writ Petitioner has, admittedly, acquired additional qualification by getting proper permission prior to issuance of G.O.(Ms)No.37 and it is his second incentive increment and in fact, the same also had been considered and granted by the appellants by proceedings, dated 19.12.2019 with effect from 01.07.2017. Hence, the argument of the appellants that in view of the clarificatory order, the Writ Petitioner is not entitled for the incentive increment, cannot be sustained and accordingly, rejected. The learned Judge, had rightly, arrived at a conclusion that the Writ Petitioner is entitled for the grant of second incentive increment and the same cannot be denied in view of G.O.(Ms)No.37 and G.O.(Ms)No.95, which needs no interference and accordingly, sustained.”

17. In view of the above facts and circumstances of the case and the ratio laid down by this Court, the respondents are directed to grant a



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second set of incentive increment to the petitioner for acquiring an M.A. degree qualification from the day following the last date of examination, i.e., on 29.05.2017 with arrears of increment as per the scheme of incentive increment, which is available before the issue of G.O.Ms.No.37, Personnel and Administrative Reforms Department dated 10.03.2020 within a period of eight (8) weeks from the date of receipt of a copy of this order.

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

20.01.2025

cda

Index : Yes

Speaking order

Neutral Citation : Yes

J.SATHYA NARAYANA PRASAD, J.

cda

To

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The Government of Tamil Nadu,
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Fort St.George, Chennai – 600 009.

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