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W.P.No.32811 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.09.2025

Coram:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P.No.32811 of 2025
and
W.M.P.No.36749 and 36750 of 2025

S.Kumaravel

Vs.

.. Petitioner

1. The Director of School Education (Personnel),
Directorate of School Education,
DPI Campus, College Road,
Chennai-600 006.
2. Financial Advisor and The Principal Accounts Officer,
Directorate of School Education,
DPI Campus, College Road,
Chennai-600 006.
3. The Chief Educational Officer,
Chief Educational Office,
Adhiyamaan Street,
Dharmapuri - 636 701.
4. The District Educational Officer,
District Educational Office,

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Adhiyamaan Street,
Dharmapuri-636 701.

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5. The Headmaster,
Government High School,
Kandagoundanoor,
Dharmapuri District - 635 302.

6. The Headmaster,
Government Higher Secondary School,
Mangarai,
Dharmapuri District - 636 813.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Cetiorarified Mandamus to call for the records of the second respondent in proceedings having Ref.No.Na.Ka.053130/Aa.Ka.Tha/2023, dated 08.07.2024, raising audit objection to the grant of incentive to the petitioner, who is working as PG Assistant in the Government High School, Mangarai, Dharmapuri District, for the M.Phil Degree obtained through distance mode and ordering recovery of the incentive granted to the petitioner from the salary of the petitioner from 28.08.2025 and quash the same as arbitrary and consequently direct the respondents to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time mode along with petitioner's salary.

For petitioner : M/s.C.Uma

For respondents : Mr.S.Mythreye Chandra, Spl.G.P.

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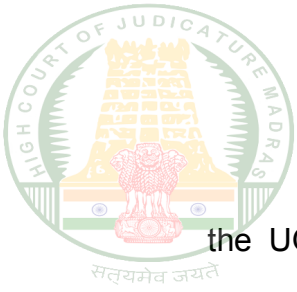
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ORDER

The petitioner has filed the present Writ Petition praying for issuance of a Writ of Certiorari Mandamus to call for the records of the second respondent in proceedings having Ref.No. Na.Ka.053130/Aa.Ka.Tha/2023, dated 08.07.2024, raising audit objection to the grant of incentive to the petitioner, who is working as PG Assistant in the Government High School, Mangarai, Dharmapuri District, for the M.Phil Degree obtained through distance mode and ordering recovery of the incentive granted to the petitioner from the salary of the petitioner from 28.08.2025 and quash the same as arbitrary and consequently direct the respondents to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time mode along with petitioner's salary.

2. W.M.P.No.36749 of 2025 praying for dispensing with the impugned order, is ordered.

3. The petitioner has pursued and obtained M.Phil Degree from Periyar University, Salem in part time mode and hence, the petitioner is entitled to incentive increment for the M,Phil Degree obtained by him from 25.08.2013. The periyar University, Salem is established by Government of Tamil Nadu in 1997, recognised by UGC under Sections 2(f) and 12(b) of the UGC Act, and hence, the Periyar University, Salem is duly recognised by the UGC. On 14.10.2023,



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the UGC issued a circular that the degrees/diplomas/certificates awarded for programmes conducted by the Open Distance Learning (ODL) institutions, recognised by the DEC (erstwhile) and UGC in conformity with the UGC Notification on specification of degrees should be treated as equivalent to the corresponding awards of the degree/diploma/certificate of the traditional universities/institutions in the country. Thus, the petitioner was rightly granted incentive for the M.Phil degree.

4. Considering the chance of acquiring M.Phil and Ph.D. degrees through Distance Education, part time mode, the Department of School Education of Tamil Nadu issued G.O.(1D).No.18, School Education (E2) Department, dated 18.01.2013 in order to include M.Phil and Ph.D. degrees in addition to M.Ed degree for granting the 2nd incentive to BT Assistants. According to this G.O., teachers having M.Phil degrees acquired through Distance Education, part time mode, are eligible to get incentive in the Department of School Education of Tamil Nadu and the petitioner, having obtained the M.Phil degree, before being appointed as BT Assistant, rightly granted 2nd incentive for the M.Phil Degree by virtue of the above G.O.

5. The Audit objection was raised, citing G.O.No.91, Higher Education (K2) Department, dated 03.04.2009 which disqualifies any person who has obtained the degree through Distance mode/Open University/part time, etc., to be appointed in Government service.



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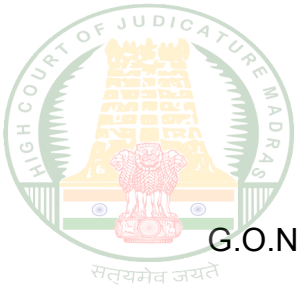
6. According to the petitioner, he is entitled for grant of incentive increment for the M.Phil qualification obtained and hence, the impugned order of recovery passed by the second respondent is illegal and arbitrary and liable to be set aside. The impugned proceedings of the second respondent, had not been given effect to by the sixth respondent till date and no recovery has been made, and hence, it is just and necessary that a direction may be issued to the respondents not to recover the incentive increment granted to the petitioner from 28.08.2013. Hence, the petitioner has filed the present Writ Petition.

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

8. Learned counsel for the petitioner submitted that G.O.Ms.No.91, Higher Education Department, dated 03.04.2009 has been quashed by this Court in W.A.No.2328 of 2018, etc., (S.Sivan Vs, The Regional Accounts Officer (Audit), Department of School Education, Coimbatore and others), dated 04.08.2023 and hence, the petitioner is eligible for grant of incentive from 28.08.2013 and no recovery shall be made in that regard.

9. This Court also heard the learned Special Government Pleader on the above aspects of the matter.

10. The petitioner has pursued M.Phil degree from Periyar University through part time mode. By virtue of G.O.(1D).No.18, School Education (E2) Department, dated 18.01.2013, the petitioner was rightly granted second incentive for the M.Phil degree. Though an Audit objection was raised citing



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G.O.No.91, Higher Education (K2) Department, dated 03.04.2009, the same was quashed by this Court as observed above and hence, the petitioner is entitled for grant of incentive increment for the M.Phil qualification acquired.

11. In the light of the above observations, the present Writ Petition is allowed, setting aside the impugned order dated 08.07.2024. The respondents shall continue to pay the incentive increment to the petitioner for having acquired M.Phil degree through part time mode, along with the petitioner's salary. There shall be no order as to costs. Consequently, W.M.P.No.36750 of 2025 is closed.

01.09.2025

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To

1. The Director of School Education (Personnel),
Directorate of School Education,
DPI Campus, College Road,
Chennai-600 006.
2. Financial Advisor and The Principal Accounts Officer,
Directorate of School Education,
DPI Campus, College Road,
Chennai-600 006.
3. The Chief Educational Officer,

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Chief Educational Office,
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A.D.JAGADISH CHANDIRA, J

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