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W.P No. 23112 of 2017
IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 08.12.2025

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THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P No. 23112 of 2017

and WMP.No. 24223 of 24224 of 2017

- 1.R.Baskar
- 2.M.Pasungkili
- 3.S.Saravanan
- 4.R.Guhan
- 5.S.Murugan
- 6.S.Karthi
- 7.C.Kovil Raj
- 8.A.Nachiyappan
- 9.A.Durai
- 10.A.Nellai Nayagam
- 11.A.Subramanian

..Petitioners

Vs

1.The Government of Tamil Nadu
Rep by the Principal Secretary to Government
School Education Department,
Fort St.George, Chennai-600009.

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

..Respondents



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Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the

1 respondent in relation to G.O.Ms.No.177 School Education (SE5(2)) department dated 13.10.2016 and quash the same insofar as it grants second set of incentive increments from 13.10.2016 and insofar as the petitioners are concerned and issue a consequential direction to the respondents to grant second set of incentive increment for acquiring higher qualification namely M.Phil or M.PEd or M.P.E.S or P.G Diploma in Yoga or Ph.d or B.Ed from day following the last date of the examination as per FR-26 and grant all consequential benefits and pass such further or other orders.

For Petitioners : Mr.R.Saseetharan

For Respondents : Mrs. P.Raja Rejswari, GA

ORDER

The petitioners, who are working as Physical Education Teachers in Government Higher Secondary Schools, are before this Court challenging the Government Order issued in G.O.Ms.No.177, School Education (SE5(2)) Department, dated 13.10.2016. By the said Government Order, the second incentive increment is to be granted to Physical Education Teachers, as in the case of other teachers, only from the date of issuance of the said order.

2. The very same Government Order was challenged before the Madurai Bench of the Madras High Court in W.A. (MD) No.1556 of 2025, and the Division Bench, vide order dated 27.06.2025, has observed as follows in paragraph 5:

“5. It is true that conferment of incentive increment for acquiring M.Phil in Physical Education was recognized for



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*the first time vide G.O.Ms.No.177 School Education Department dated 13.10.2016. The view taken by one of us in **W.P.(MD) No.4973 of 2019 vide order dated 16.11.2022** that the entitlement for acquiring the necessary qualification would commence only after issuance of G.O.Ms.No.177 dated 13.10.2016 was held to be incorrect by the Hon'ble Division Bench vide order dated **22.10.2024 made in W.A.(MD). No. 2084 of 2024 (State of Tamil Nadu rep. by its Secretary Vs. P.Muneeswari)**. FR.26 provides that the right conferred by passing the examination is the right to draw an increment from the day following the last day of the examination provided that the person concerned is otherwise eligible for increment. Therefore, the authority was justified in granting incentive increment to the writ petitioner for acquiring M.Phil., degree with effect from 29.06.2008 when the last examination in M.Phil., was written. The authority was justified only to the extent of holding that conferment of incentive increment for acquiring B.Ed., degree was incorrect.”*

3. Therefore, Clause 2 of the said G.O., insofar as it relates to denying the grant of the second incentive increment with effect from the date of acquisition of the higher qualification, is held to be arbitrary and discriminatory. Accordingly, Clause 2 of the said G.O. is liable to be set aside. It is further held that the petitioners are entitled to the grant of the second incentive increment from the date immediately following the last date of the examination for



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acquiring the higher qualification, subject to their otherwise being eligible.

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4. The learned counsel for the respondents placed reliance on the judgment of the Division Bench of this Court in W.A. (MD) No.119 of 2023 dated 14.02.2023, wherein the Division Bench dismissed the appeal filed by the writ petitioner therein on the ground that the writ petitioner was entitled to the benefit of incentive increment with effect from 17.03.1998. However, the said decision was rendered with reference to Fundamental Rule 26 and, therefore, is not applicable to the present case. Subsequently, another Division Bench of this Court, as cited supra, held that the writ petitioner therein was entitled to the grant of the second incentive increment from the date of acquisition of the higher qualification and not from the date of issuance of G.O.Ms.No.177, School Education Department, dated 13.10.2016.



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5. In light of the foregoing discussion, the following order is passed:

- i. The Writ Petition is allowed.
- ii. Clause 2 of the impugned G.O.Ms.No.177, School Education Department, dated 13.10.2016, is hereby set aside.
- iii. As it is held that the petitioners are entitled to the grant of the second incentive increment from the date immediately following the last date of the examination for acquiring the higher qualification, subject to their otherwise being eligible, the respondents are directed to pass appropriate orders in accordance with law within a period of two months from the date of receipt of a copy of this order.
- iv. Consequently, the connected Miscellaneous Petitions are closed.
No costs.

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Index : Yes/No
Internet : Yes/No
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HEMANT CHANDANGOUDAR, J.

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To

1.The Principal Secretary to Government
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2.The Director of School Education,
College Road,
Chennai-600006

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