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W.A.No.3737 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

W.A.No.3737 of 2024

1. The Chief Educational Officer
Salem District, Salem.
 2. The District Educational Officer
Salem Education District, Salem.
 3. The Block Educational Officer
Vazhapadi Block, Vazhapadi
Salem District.
- .. Appellants
- Vs.
- M.Menaka Madhavan .. Respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent, against
the order dated 03.06.2024 in W.P.No.19221 of 2021.

For the Appellants : Mr.R.Neethi Perumal
Government Advocate

JUDGMENT

(Judgment of the Court was authored by R.SURESH KUMAR, J.)

This intra-Court appeal has been directed against the order of
the Writ Court made in W.P.No.19221 of 2021 dated 03.06.2024.



W.A.No.3737 of 2024

WEB COPY

2. The issue is that the respondent/writ petitioner was appointed as a Secondary Grade Teacher on 15.07.2009. When she was working as a Secondary Grade Teacher, she acquired the higher qualification of B.Ed. Degree in the year 2014. It is further to be noted that even prior to her appointment as a Secondary Grade Teacher, the respondent/writ petitioner acquired M.Com. Degree in the year 2007 itself. Therefore, having been acquired the higher qualifications of B.Ed. Degree as well as M.Com. Degree, based on the Government Orders which were in vogue, she sought advance incentive increment to be awarded for these two additional qualifications acquired by the respondent/writ petitioner, which in fact was allowed by the third appellant, that is the Block Educational Officer, through the order dated 02.07.2015 with effect from 22.05.2014.

3. However, after several years, by the proceedings dated 19.08.2021, the advance incentive increment that has already been sanctioned for the two higher qualifications acquired by the respondent/writ petitioner was withdrawn or canceled. Against the same, the respondent/writ petitioner approached this Court by filing W.P.No.19221 of 2021.



W.A.No.3737 of 2024

4. The learned Writ Court, having considered the Rule position and the relevant Government Orders, namely, G.O.Ms.No.42, Education Department dated 10.01.1969 as well as G.O.Ms.No.134, School Education (G2) Department dated 15.06.2007, has come to the conclusion that insofar as the higher qualification of M.Com. Degree acquired by the respondent/writ petitioner even prior to her appointment as a Secondary Grade Teacher is concerned, the same cannot be treated as a higher qualification, as merely because B.Com. or M.Com. Degree or a relevant qualification to hold the post of B.T. Assistant in Commerce cannot *ipso facto* confer any right upon the Teacher who acquired M.Com. Degree and it cannot be therefore treated as a higher qualification for the purpose of sanctioning advance incentive increment.

5. Therefore, the learned Single Judge upheld the impugned order before the Writ Court passed by the appellant Department insofar as canceling the advance incentive increment sanctioned already in favour of the respondent/writ petitioner for having acquired the qualification of M.Com Degree, but, at the same time, the learned Writ Court, having considered the Government Orders which were in vogue, set aside the order dated 19.08.2021 in part, whereby, the withdrawal of the advance incentive increment



W.A.No.3737 of 2024

sanctioned in favour of the respondent/writ petitioner for having acquired the higher qualification of B.Ed. Degree was set aside and therefore, to that extent, the writ petition was partly allowed through the impugned order.

6. An attempt has been made by the learned Government Advocate appearing for the appellants to assail the order passed by the Writ Court by merely stating that the B.Ed. Degree also is not a higher qualification. Therefore, for having acquired such B.Ed. Degree qualification, the advance incentive increment sanctioned earlier in the year 2015 ought to have been withdrawn. Therefore, on that ground, the withdrawal order, which was impugned before the Writ Court, in *toto*, ought to have been upheld by the learned Single Judge he contended.

7. The said submission does not have any force for the simple reason that the B.Ed. Degree acquired is certainly a higher qualification insofar as a Secondary Grade Teacher is concerned, because the qualification to hold the post of Secondary Grade Teacher is Secondary Grade Teacher Training alone. When that being so, for very long years, the practice of sanctioning advance incentive increment for having acquired the qualification of B.Ed.



W.A.No.3737 of 2024

Degree, which has been in vogue, cannot be put against the respondent/writ petitioner by revoking the benefit already conferred on her.

8. Therefore, we do not find any reason to interfere with the order impugned herein. Resultantly, the appeal fails and deserves to be dismissed. Accordingly, the writ appeal stands dismissed. However, there shall be no order as to costs. Consequently, C.M.P.No.29492 of 2024 is closed.

(R.S.K., J.) (C.S.N, J)
03.01.2025

Neutral Citation:Yes/No

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W.A.No.3737 of 2024

R. SURESH KUMAR, J.
AND
C. SARAVANAN, J.
(drm)

W.A.No.3737 of 2024

03.01.2025