



W.P.No.41586 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2025

CORAM

THE HONOURABLE MR.JUSTICE G.K. ILANTHIRAIYAN

W.P.No.41586 of 2025

V.Selvanayagi

: Petitioner

Vs.

- 1.The Director of School Education,
Directorate of School Education,
DPI Campus, College Road,
Chennai-600 006.
- 2.The Regional Accounts Officer (Audit)
Directorate of School Education,
School Education Department,
LLA Building,
3rd Floor,
Big Bazaar Street, Town Hall,
Coimbatore -641 001.
- 3.The Chief Educational Officer,
Coimbatore District,
Coimbatore-641 001.
- 4.The Headmaster,
Government Higher Secondary School,
Sundakakamuthur, Coimbatore District-641 010.
- 5.The Headmaster,
Government Girls Higher Secondary School,
Thondamuthur,
Coimbatore-641 109.

: Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus calling for the records of the proceedings of the second respondent having Ref.No.Na.Ka.No.3199/E3/2018 dated 07.02.2019 and of the 5th respondent in proceedings having Na.Ka.No.123/2023 dated 17.09.2025 raising audit objection to the grant of incentive for the M.Phil Degree obtained through part time mode from the salary of the petitioner from 22.04.2014 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 along with petitioner's salary.

For Petitioner : Ms.C.Uma

For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 07.02.2019 and the order dated 17.09.2025 on the file of the fifth respondent, thereby raised audit objection to grant incentive for M.Phil Degree obtained through part time mode.

2. The petitioner was appointed as Post Graduate Teacher on 22.02.2014. The petitioner had pursued and completed her M.Phil course in the year 2008 through part time mode. In view of the higher qualification, the petitioner was granted salary increment as per G.O(1D).No.18 School Education (E2) Department dated 18.1.2013 with effect from 22.02.2014. While being so, the second



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respondent by its proceedings dated 07.02.2019 addressed to the fourth respondent relating to the audit report for the year 2017-18, it observed that as per G.O.Ms.No.91, Higher Education (K2) Department dated 03.04.2009, a degree is obtained by Correspondence/Distance Education Mode/Open University/Part time mode are ineligible for appointment in Government service. Therefore, the Government of Tamil Nadu did not grant any permission to obtain M.Phil/Ph.d degree in Correspondence /Part Time mode. In pursuant to the said Government Order, audit objection was raised for grant of salary incentive increment for M.Phil Degree. Further, the loss should be recovered from the salary of the petitioner. However, the said proceedings was not effected and as such the petitioner submitted representation, however, it was not considered by the fifth respondent and by its communication dated 17.09.2025 rejected the request made by the petitioner and directed to remit incentive increments received for the M.Phil decree.

3. This issue already dealt with by the Hon'ble Division Bench of this Court in W.A.No.2328 of 2018 and etc. batch dated 04.08.2023 and held as follows:

“33. In this context, the learned Government Pleader appearing for the State has relied upon the G.O.Ms.No.91, Higher Education Department, dated 03.04.2009 and has stated that the Government by the said G.O, declared that the M.Phil and Ph.D degree



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obtained through the correspondence or Distance Education or Open University system are ineligible for Government appointments and appointment as lecturers in colleges or Universities including self-financing colleges, therefore the import of the said G.O.Ms.No.91, dated 03.04.2009 if it is implemented that will stand in the way for extending the benefit of advance incentive increment to the teachers.

34. However, the said submission made by the learned Government Pleader is liable to be rejected because, the said G.O has only mentioned about the eligibility for a person to get employment. Here, the teachers, as per earlier qualification acquired already, been appointed as teachers or lecturers and the benefit now questioned is only the grant of advance incentive increment for having acquired the higher qualification. Therefore, the G.O.Ms.No.91 dated 03.04.2009 issued by the Higher Education Department does not deal with anything about the allowing of advance incentive increment to the teachers, who acquired higher qualification, therefore, that argument made by the learned Government Pleader also is to be rejected and accordingly, it is rejected.”

4. The above judgment squarely applies to the case on hand since the G.O.Ms.No.91, Higher Education (K2) Department dated 03.04.2009, was issued with respect to eligibility for a person to get employment. Insofar the petitioner is concerned, she was already appointed as Post Graduate Teacher on 22.02.2014 itself. Now the benefit which was granted to the petitioner for her higher qualification cannot be questioned in the light of G.O.Ms.No.91, Higher Education



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(K2) Department dated 03.04.2009. Further, it does not deal with the incentive increment, who acquired higher qualification.

5. In view of the above, the impugned orders dated 07.02.2019 and 17.09.2025 cannot be sustained and set aside. The writ petition stands allowed. No costs. Consequently, WMP Nos.46607 and 46609 of 2025 are closed.

05.11.2025

Speaking (or) Non Speaking Order
Neutral Citation: Yes/No
mrn



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To

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G.K. ILANTHIRAIYAN, J.

(mrn)

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