



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-11-2025

CORAM

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

WP No. 41593 of 2025

and

WMP Nos.46613 and 46616 of 2025

1. R.Arul Kennedy Raj

Petitioner(s)

Vs

1. The State of Tamil Nadu
Rep. By its Chief Secretary to
Government,
Human Resources Management
(FR.IV) Department,
Fort. St George,
Chennai - 600 009

2.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Personnel And Administrative Reforms
Department,
Fort. St George, Chennai - 600 009.

3.The State of Tamil Nadu,
Rep. by its Secretary To Government,
Finance Department Fort. St George,
Chennai - 600 009.

4.The Director Of School Education
School Education Department,
DPI Complex, College Road,
Chennai 600 006

5.The Block Educational Officer I
Office Of The Block Educational Office
Palayamkottai Rural,
Palayamkottai,



Tirunelveli District

Respondent(s)

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 1st respondent in GO Ms. No. 95 Human Resources Management (FR-IV) Department dated 26.10.2023 in so far as the said government order has in paras 7 and 8 made an unreasonable classification violative of Article 14 of the Constitution between claims for additional incentive for having acquired the additional qualification prior to 10.03.2020 which are pending or not made as on 10.03.2020 being the date of GO Ms.No. 37 Personnel and Administrative Reforms (FR VI) Department and consequential proceedings of the 5th respondent having Ref. No. Na.Ka.No. 819/ A1/ 2024 dated 15/05/2024 cancelling the incentive increment granted to the petitioner from 29/12/2013 and ordinary recovery of amount of Rs. 7,18,566/- paid towards incentive increment to the petitioner and quash the same and to consequently direct the respondents to continue to pay the incentive increment sanctioned to the petitioners who has acquired additional qualification prior to 10.03.2020 and is eligible for sanction of increment in the salary.

For Petitioner: Ms.C.Uma

For Respondents: Mr.V.Jeevagiridharan
Additional Government Pleader
for R1 to R3

Mrs.S.Mythreye Chandru
Special Government Pleader
for R4 and R5

ORDER

This writ petition has been filed challenging the order dated 15.05.2024 passed by the fifth respondent, thereby cancelled the incentive increment granted to the petitioner from 29.12.2013 and also ordered to recover a sum of Rs.7,18,566/- which was already paid towards incentive increment to the petitioner and also challenged the G.O.Ms.No.95, Human Resources



Management (FR-IV) Department dated 26.10.2023 on the file of the fifth respondent insofar as paragraph Nos.7 and 8.

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2. The petitioner was appointed in the Government aided school and thereafter appointed as Secondary Grade Teacher in the Panchayat Union Elementary School. Subsequently, he was promoted to the post of Headmaster on 18.06.2018. Even before this appointment, he is qualified with B.A. History degree. Thereafter, he acquired M.A.degree in the year 1999. Later, he also acquired B.Ed. Degree in the month of December, 2013. Hence, the petitioner applied for grant of incentive and he was granted first incentive increment for obtaining B.Ed. Decree and second incentive increment for M.A.degree from 29.12.2013. Now by proceedings dated 15.05.2024, the fifth respondent cancelled the incentive increment on the basis of the G.O.Ms.No.37, Personnel and Administrative Reforms Department dated 10.03.2020 and also ordered recovery of incentive amount which are already paid to the petitioner. As per G.O.Ms.No.37, Personnel and Administrative Reforms Department dated 10.03.2020, the sanction of advance increment for higher qualification was cancelled with immediate effect. However, it does not say that it is applicable retrospectively. That apart, the fifth respondent is not competent person to pass order to stop increments which was already granted to the petitioner and order recovery of incentive amount which was paid from the year 2013.



3. Further, the Hon'ble Division Bench of Madurai Bench of this Court by order dated 12.06.2024, in W.A.No.975 of 2024 held as follows:

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“8.G.O.(MS) No.37 does not operate retrospectively and the purposive interpretation of Clause 9(vi) in the Government Order can only be that the Teachers who had all acquired the higher qualification prior to the issuance of Government Order and if otherwise qualified are eligible for the sanction of the incentive increment. If the interpretation made by the learned Additional Government Pleader is to be accepted, then the very object of the inclusion of clause 6(vi) in the Government Order becomes redundant. As such, we have no hesitation to hold that the Teachers, who, after obtaining necessary permission from the authorities, had acquired higher qualification, i.e., whenever the degrees had been awarded prior to issuance of G.O.(MS) No.37, dated 10.03.2020, are entitled for advance increment for the higher qualification, if it is within the limit of two incentive increment in their career.”

4. Further, in Writ Appeal No.1052 of 2024 dated 21.06.2024 also, the Hon'ble Division Bench of Madurai Bench of this Court held as follows:

“11. Therefore, we have held that all the persons, who had been acquired additional qualification prior to issuance of G.O.(MS) No.37, if it is within two incentive increment. Further, the clarification issued in G.O.(MS) No.95, had been dealt with by the learned Judge and having found that G.O.(MS)No.37 cannot operate retrospectively, the benefits granted under the incentive scheme prior to the Government Order, cannot be taken back and therefore, the similarly placed persons cannot be discriminated and treated unequally. As, already it has been decided that G.O.(MS) No.37 does not have a retrospective effect and the employees, who had acquire additional qualification prior to issuance of G.O.(MS) No.37, are entitled for the grant of incentive increment, the clarifactory order issued



in G.O.(MS) No.95, can in no way affect the rights of the concerned persons, who had acquired additional qualification and the right accrued on them cannot be tinkered with or taken away and the benefits cannot be denied through this clarifactory order.

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 infact, 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 clarifactory order, the writ petitioner is not entitled for the incentive increment, cannot be sustained and accordingly, rejected. The learned single 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.”

5. In view of the above, the order impugned dated 15.05.2024 on the file of the fifth respondent cannot be sustained and accordingly, the impugned order dated 15.05.2024 is quashed. The writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

07-11-2025

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
mrn



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G.K.ILANTHIRAIYAN, J.
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