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W.P.No.43479 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.43479 of 2025 and
WMP.Nos.48641 & 48644 of 2025

K.Chandra

... Petitioner

Vs.

1.THE DIRECTOR OF SCHOOL EDUCATION (SERVICE DIVISION),
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 REGIONAL ACCOUNTS OFFICER (AUDIT),
SCHOOL EDUCATION DEPARTMENT, LLA BUILDING,
3RD FLOOR, BIG BAZAAR STREET, TOWN HALL,
COIMBATORE- 641 001.

4.DISTRICT EDUCATIONAL OFFICER,
O/O.DISTRICT EDUCATION OFFICE, COIMBATORE DISTRICT,
COIMBATORE- 641 001.

5.THE HEADMASTER,
GOVERNMENT GIRLS HIGHER SECONDARY SCHOOL,
THONDAMUTHUR, COIMBATORE- 641 109. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India
for issuance of a Writ of Certiorarified Mandamus, Calling for the records
of the proceedings of the 3rd Respondent having Ref.No.
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Na.Ka.No.1644/ E3/ 2019, dated 09.11.2020 and the proceedings of the 2nd respondent having Ref.No.Na.Ka.No. 053130 / Aa.Ka. Tha/ 2023, dated 11.07.2023 and raising audit objection to the grant of incentive to the petitioner who is working as PG Assistant in Government Girls Higher Secondary School, Thondamuthur, Coimbatore - 641 109, for the M.Phil Degree obtained and ordering recovery of the incentive granted to the petitioner from the salary of the petitioner from 19.11.2011 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 distance mode 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 orders passed by the third respondent dated 09.11.2020 and of the second respondent 11.07.2023 thereby raising audit objection to grant incentive to the petitioner and also ordering for recovery of incentive increment from the salary of the petitioner.

2. The issue involved in this writ petition has already been dealt with by this Court in WP.No.42711 of 2025 and this Court by order 2/8



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dated 12.11.2025 quashed the orders impugned in that writ petition. The

relevant portion of that order is extracted hereunder:

7. *Thus it is clear that GO.Ms.No.91 Higher Education (K2) Department dated 03.04.2009 cannot be applied to the case of advance incentive increment like the petitioner herein. Therefore, the issue is no more res integra and the petitioner is entitled for grant of second incentive increment for his M.Phil qualification which was acquired after due permission. Hence, the order of the second respondent to recover the incentive increment is illegal and arbitrary. Insofar as obtaining permission for higher education, the Hon'ble Division Bench of this Court held in WA.No.1124 of 2023 by an order dated 24.07.2023 as follows:*

"2. The application for incentive increment was rejected only on the ground that the first respondent had not obtained prior permission of the authorities for undergoing higher education. Therefore, the learned Single Judge of this Court, allowed the Writ Petition, following the view taken by this Court by another Judge of this Court in J.Tamilrajan vs. Department of School Education and others passed in W.P(MD) No.4019 of 2018. It is now admitted before this Court the same view of this Court was affirmed in W.A(MD)No.813 of 2021 in the case of The Director of School Education, DPI Campus, College Road,



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Chennai -6 .Vs. G.Anandhi, dated 16.4.2021.

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3. This Court find that the issue is no-more *res integra* in view of the several judgments on this issue holding that the claim of teachers for incentive increment cannot be rejected on the ground that the concerned teacher had not obtained prior permission of the authorities for undergoing higher education. Since the issue has been settled by precedents, this Court is unable to countenance the arguments advanced by the learned counsel for the appellants.

It is true that there are several Government Order which have insisted the requirement of permission of the educational authorities for a teacher to undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher qualification is to encourage the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service will have to obtain prior permission as per the Government Orders. Further it is to be noted that acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity and that will not entitle the respondents to reject the benefit to the teachers.



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4. *Considering the overall policy of the Government, there is no reason to take a different view as expressed by the learned Single Judge. The decision relied upon by the learned Single Judge in the subject-matter in issue has been subsequently affirmed by the learned Division Bench of this Court. Hence this Court finds no merit in the Writ Appeal and the same is liable to be dismissed.*

5. *Accordingly, the Writ Appeal stands dismissed. No costs. The appellants are directed to comply with the direction of the learned Single Judge within a period of twelve weeks from the date of receipt of a copy of this judgment. Consequently connected Miscellaneous Petition is dismissed."*

8. *In view of the above, the petitioner is entitled for grant of incentive increment for M.Phil degree. Further, as per GO.286 dated 28.08.2018 issued by the Finance Pension Department. The authorities are restrained from recovering excess payment which have been made for a period in excess five years before order of recovery. It also requires show cause notice to the concerned employee to enable the employee to represent against the recovery. However, the above procedure has not been followed in the case of the petitioner before passing order of recovery.*

9. *At this juncture, it is the submission of the learned Special Government Pleader appearing for the respondents that as per GO.(1D) No.18 School*



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Education Department dated 18.01.2013, the petitioner is entitled for incentive increment only from 18.01.2013. In this regard, it is relevant to rely upon the judgment of this Court rendered in WP.No.22412 of 2013, etc batch dated 27.07.2023, wherein it is held as follows:

“13. I find some force in the submissions made by the learned counsel for the petitioner. F.R.26 Ruling 2 reads as follows:-

“(2) In cases where the passing of an examination or test confers on a Government servant the title to any right, benefit or concession, such title should be deemed to have accrued on the day following the last day of the examination or test which he passed. In cases where the examination or test can be passed in installments, the title to the right, benefit or concession will be deemed to have accrued on the day following the last day of the examination in the subject or subjects in which he has passed”.

14. What has been ordered in G.O.(1D).No.18, cannot be given a go-by by way of clarification and the object of the Government Order, cannot be watered down through a letter. As a matter of fact, G.O. (1D).No.18 is in the mode of an amendment to an earlier G.O.Ms.No.1024 School Education Department dated 09.12.1993 wherein, the higher educational qualification of M.Phil and Ph.D were inserted along



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with M.Ed. Thus, the very reasoning given by the respondents in the impugned order that G.O.(1D).No.18 will have only a prospective effect, cannot be sustained, in view of the fact that this Government Order is only an expansion of the earlier existing G.O.Ms.No.1024 dated 09.12.1993. Even otherwise, as pointed out by the learned counsel for the petitioners, a Government Letter cannot overrule the Government Order.

10. In view of the above, the impugned orders cannot be sustained and the same are liable to be set aside. Accordingly, impugned orders dated 09.11.2020 and 11.07.2023 are set aside and this writ petition is allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

3. Therefore, the same order can be passed in this writ petition as well. Accordingly, the impugned orders dated 09.11.2020 and 11.07.2023 are set aside and this writ petition is allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Neutral citation: Yes/No

Index: Yes/No

Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

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COLLEGE ROAD, CHENNAI- 600 006.

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