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W.P.No.44860 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2025

CORAM

THE HONOURABLE Mr. JUSTICE G.K. ILANTHIRAIYAN

W.P.No.44860 of 2025

and

WMP.No.50047 of 2025

K.Jayanthi

... Petitioner

Vs.

1.The State Of Tamil Nadu
Rep. By Its Secretary To Government,
School Education Department, Fort St. George,
Chennai-600 009.

2.The Director Of Elementary Education
Dpi Campus, College Road,
Chennai-6.

3.The Director Of Elementary Education,
Office Of The Director Of Elementary Education,
College Road, Chennai-600 006.

4.The Assistant Elementary Educational Officer
Thirunavalur, Kallakurichi District.

5.The Block Educational Officer-1,
Thirunavalur Union,
Kallakurichi District.

6.The Headmaster
Panchayat Union Primary School,
Kalavanur.

...Respondents



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Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records pertaining to the proceedings of the 5th respondent in Na.Ka. No.1513/ A1/ 2025 dated 14.10.2025 cancelling the sanction of incentive increment to the petitioner and consequential order of re-fixing the salary and direction to repay the excessive amount within one week and quash the same and consequently direct the respondents to continue to pay the last drawn salary with incentive increment for higher educational qualifications to the petitioner.

For Petitioner : Mr.M.Jaikumar

For Respondents : Mrs.S.Mythreye Chandru, Spl.GP
For R.1 to R.5.

ORDER

The writ petition has been filed challenging the impugned order cancelling the incentive increments which is already granted to the petitioner and ordered to recover the incentives which are paid and also to revise the scale of pay for acquiring additional degree.

2. Heard both sides and perused the materials available on record.

3. The petitioner was initially appointed as Secondary Grade Teacher in Panchayat Union Middle School, Pillaiyarkuppam, Thirunavalur Union,



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Villupuram District on 19.10.2004. While she was working as Secondary

Grade Teacher, she was permitted to study higher degrees. The petitioner

had completed higher degrees such as B.Sc (Mathematics). B.Ed, M.Sc.

(Mathematics). Therefore, she was sanctioned two sets of incentive

increments for acquiring higher qualification. The Government of Tamil

Nadu with an object of encouraging teachers for acquiring higher

qualification for the benefits of students originally issued G.O.Ms.No.42

Educational Department, dated 10.01.1969 introducing the scheme of

incentive increment for acquiring higher educational qualification. It

proceeded to grant incentive increment (equivalent to two advance

increments) for possessing or acquiring higher qualification in any degree

course of study. On the basis of Government order, various orders were

issued for grant of incentive increment to different categories of teachers

subsequently. The Government passed another order in G.O.Ms.No.907 P

& AR Department dated 17.09.1996 based on the recommendations of 4th

Pay Commission that the higher qualification for the purpose of grant of

incentive increment should be with reference to the area of specialisation

instead of any other subject. Since there were lot of representations from

various Teachers' Association, the Government issued another order in

G.O.Ms.No.624 Education Department dated 13.07.1992 introducing the

following four conditions for grant of incentive increment.



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(i) Sanction of incentive increments to a teacher for acquiring higher qualification in particular subject to the condition that the teacher will also be required to teach that in addition to the subject teacher used to teach.

(ii) In respect of the past cases, those enrolled for courses of higher studies upto the academic year 1991~92, the restriction imposed in G.O.Ms.No.907 P & AR (FR.II) Department dated 17.09.1989 shall be relaxed to cover really relevant courses all subjects in the school curriculam. The Director of School Education shall judge the relevance in such cases no arrears of the incentive increment shall be allowed. Monetary benefit of incentive increment in such cases shall be allowed with effect from the date of issue of these orders.

(iii) In respect of teachers enrolling during 1992~93 and after, sanction of increments shall be restricted to developing areas of study and subjects where teachers shortage has been identified. The Director of School Education will identify the subjects for purposes of incentive increment in which teachers will be encouraged to qualify in consultation with the Government in all future case. The intention is to encourage the teachers to get higher qualification in those specially selected subjects.

(iv) In respect of physical education teachers incentive increments will be sanctioned in future only in the area of physical education with a view to upgrade physical training. The Director of School Education will identify the courses in this area also.



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4. However, on receipt of other representations stating that the Government Order in G.O.Ms.No.624 dated 13.07.1992 are not feasible for being implemented, since it has deprived incentive increment for most of B.T.Assistants/Secondary Grade Teachers, the Government once again passed order in G.O.Ms.No.324 Education, Science and Technology Department dated 25.04.1995 by deleting the conditions 1 to 3 in the earlier Government Order in G.O.Ms.No.624 dated 13.07.1992 and made it clear that for sanction of the incentive increment, the subjects in the Higher Secondary syllabus shall be the relevant subjects. It is relevant to extract paragraph 5 of the G.O.Ms.No.624 dated 13.07.1992 and the same is extracted as below:-

5. The Government accordingly direct that

(i) The conditions (i) to (iii) in para 3 of G.O.Ms.No.624 Education dated 13.07.1992 be deleted.

(ii) For the sanction of incentive increments the subjects in the Higher Secondary Syllabus shall be relevant subjects.

(iii) In respect of teachers in Physical Education they are eligible for the incentive for higher qualification only in Physical Education.

(iv) These orders will take irrespective effect from 17.09.1986 to cover past cases.



(v) The teachers who have a specialised higher qualification in subjects other than Higher Secondary Syllabus not be eligible for any incentive increment.

5. As per the Government Order, the petitioner is entitled for sanctioning of incentive increments for their respective qualifications.

6. Admittedly, the petitioner is qualified with the subjects in the Higher Secondary syllabus, therefore, she was sanctioned with incentive increments as per the Government Order G.O.Ms.No.324 dated 25.04.1995. While being so, the petitioner in W.P.(MD).No.22704 of 2018 dated 21.01.2025 was also provided with incentive increments for possessing higher qualification in M.Com., However, the increment granted was cancelled on the ground that the petitioner therein being a teacher of English subject M.Com., degree obtained by him would not serve any purpose to the students and therefore, ordered recovery of incentive increments which was already granted to the petitioner therein and also to stop the incentive increments and ordered to revise the scale of pay. The Hon'ble Madurai Bench of this Court by order dated 25.01.2025 dismissed the writ petition and issued directions to the Government that the Government shall find out the ineligible teachers, who are receiving



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incentive increments for their higher qualification without any relevancy and to take appropriate action to recover the same, as it is a loss to the public exchequer.

7. On the basis of the order passed by this Court, now the impugned orders in this writ petition has been passed for stopping the increments and also ordered to recover the incentives and also to revise the scale of pay. In the meantime, a teacher filed writ petition in W.P.No.2043 of 2019 seeking a direction to the Government to reconsider the plea of grant of advance incentive increments for acquiring higher qualification by the said teacher and the same was allowed. Aggrieved by the same, the Government of Tamil Nadu, School Education Department, Chennai filed writ appeal before this Court in W.A.No.2747 of 2023. The Hon'ble Division Bench of this Court dismissed the writ appeal and observed as follows:-

7. Thereafter, successive State Governments expanded the scope of G.O.42 and whenever there was an attempt to narrow the scope to restrict the grant of incentive increments, the Associations of Government School Teachers were successful in negotiating with the successive Governments to have the incentive increments restored. One such instance is when the Government passed G.O.(Ms.)No.624 Education dated 13.07.1992, which restricted the grant of incentive increments and



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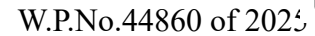


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made it applicable only to higher qualifications, which will be actually useful to the students.

8. Unfortunately, after about 3 years, the Government went back again and passed G.O.(Ms.)No.324 dated 25.04.1995 which apart from recalling the conditions imposed by para 3 of G.O.(Ms.)No.624 dated 13.07.1992, extended the benefit of incentive increments for higher qualifications in subjects that are part of the higher secondary syllabus, thereby widening the grant of incentive increments to higher qualifications obtained in subjects like Economics or Commerce or Computer Science, which were not taught in Standards 1 to 8 for which the Secondary Grade Teacher was appointed.

9. Thereafter, the Government again issued G.O. (Per)No.134 dated 15.06.2007, which related to promotion. There again, the Government extended the promotional avenues to Secondary Grade Teachers to become Middle School Headmasters or Elementary School Headmasters by just obtaining a Bachelor's Degree irrespective of the subject. This malady was sought to be cured by G.O. (Per)No.134 dated 15.06.2007, wherein the Government decided to restrict promotion only to those who had obtained graduation in subjects which are taught in the pre~primary, elementary and middle school. Such a restriction was not extended to the grant of incentive increments.



12. Though Mr.U.M.Ravichandran, learned Special Government Pleader would vehemently contend that this is only a clarification, we are unable to accept his submission. When G.O.(Ms.)No.324 dated 25.04.1995 specifically declares that all higher qualifications obtained in subjects which form part of the higher secondary syllabus shall be entitled to grant of incentive increments, the Director of Elementary Education, by his letter, cannot narrow down the scope of the Government Order.



13. Today the entire scheme for incentive increments has been withdrawn but the issue as to whether the said withdrawal can only be prospective and it cannot operate retrospectively still lingers. We do not see the need to go into the said issue as it is not germane to the facts on hand. Here the respondent has completed M.A. (Economics) in May 2010 and B.Ed. in December 2015. Therefore, she is entitled to two sets of advance incentive increments for these two higher qualifications obtained by her. The question of whether M.A.(Economics) would be useful to the School students or not cannot be gone into by us, as the Government, in its wisdom, had in G.O. (Ms.)No.324 dated 25.04.1995, consciously decided to confer the benefit of the incentive increments on all teachers who obtained higher qualifications in any subject found in the higher secondary syllabus.

14. Therefore, we are unable to fault the order of the learned single Judge. The Writ Appeal therefore fails and it is accordingly dismissed. There will be a direction to the appellants to grant two (2) sets of incentive increments, one for B.Ed. qualification and another for M.A. (Economics), to the respondent with effect from the date of acquisition of the qualifications and pass orders within a period of eight (8) weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petitions are closed.



8. Thus it is clear that G.O.Ms.No.324 dated 25.04.1995 specifically declares that all higher qualifications obtained in subjects which form part of the higher secondary syllabus shall be entitled to grant of incentive increments.

9. Mrs. S.Mythreye Chandru, learned Special Government Pleader submitted that the similar issue has been dealt with before the Hon'ble Madurai Bench of this Court in a batch of writ petitions in W.P. (MD).No.14816 of 2025 dated 29.08.2025 and the relevant paragraphs are extracted as below:-

28. In view of the categorical decisions rendered by the Division Bench of this Court, the acquisition of higher qualifications like M.A., (Economics), M.A.(History), M.Com., M.A., (Political Science), M.A., (Sociology) and M.C.A., has no relevance to the subjects which are taught in classes 6 to 8 and therefore the petitioners who have acquired such higher qualifications like M.A., (Economics), M.A.(History), M.Com., M.A., (Political Science), M.A., (Sociology) and M.C.A., would not be eligible for grant of incentive increments. Hence, the cancellation of the incentive increments granted to the petitioners cannot be interfered with. However, in respect of B.Ed., degree, since it is a relevant degree for classes 6 to 8, the rejection of the



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grant of incentive increment for acquiring B.Ed., degree alone is set aside.

29. However, it is the settled position of law that amounts which have been paid by way of incentive increments, which are not on account of any wrong committed by the petitioners, the same cannot be recovered. The grant of incentive increments on the application of the petitioners have been made by the respondents on the basis of wrong interpretation of the Government Orders, which cannot be put against the petitioners and therefore in the absence of any wrong committed by the petitioners, this Court makes it clear that the amount paid to the petitioners towards incentive increment cannot be recovered and the order revising the pay by cancelling the incentive increments could be applied only prospectively and not retrospectively.

30. Therefore, the cancellation of incentive increments, though is sustained the recovery of the amount already paid towards incentive increments by the respondents is wholly unsustainable and to that extent the said portion of the order is set aside.

31. Accordingly, these writ petitions are disposed of, with the aforesaid observations and directions. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.



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10. Therefore, the petitioner is not entitled to incentive increment for her higher qualification in the unrelated subjects. That apart, she obtained a degree only based on the unrelated subjects to her teaching classes. Therefore, she is also not eligible to get any incentive increments for her B.Ed., qualification.

11. In so far as the recovery of incentives is concerned, the recovery can be made for the last five years as per the dictum laid by the Hon'ble Supreme Court judgment in the case of *State of Punjab and Others Vs. Rafiq Masih (White Washer) and others* reported in (2015) 4 SCC 3334. The above conditions cannot be countenanced to. In view of G.O.Ms.No.324 Education, Science and Technology Department dated 25.04.1995, it is very clear that all higher qualifications obtained in subjects which form part of the higher secondary syllabus shall be entitled to grant of incentive increments. In so far as the recovery is concerned, the Hon'ble Supreme Court repeatedly held that the recovery of excess amount cannot be applied retrospectively and that too after a long time. The petitioner was granted incentive increment in the year 2005.

12. In this regard, learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court reported in *2024 SCC online SC*



1909 in the case of *Jagdish Prasad Singh Vs State of Bihar and others*,

wherein at para 21 it is held as follows:-

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21. We firmly believe that any decision taken by the State Government to reduce an employee's pay scale and recover the excess amount cannot be applied retrospectively and that too after a long time gap. In the case of Syed Abdul Qadir Vs State of Bihar this Court held that when the excess unauthorised payment is detected within a short period of time, it would be open for the employer to recover the same. Conversely, if the payment had been made for a long duration of time, it would be iniquitous to make any recovery. The relevant paras of the Syed Abdul Qadir (supra) are extracted herein below:~

57. This Court, in a catena of decisions has granted relief against recovery of excess payment of emoluments/allowances if (a) the excess amount was not paid on account of any misrepresentation or fraud on the part of the employee, and (b) if such excess payment was made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order, which is subsequently found to be erroneous.

58. The relief against recovery is granted by courts not because of any right in the employees, but in equity, exercising judicial discretion to relieve the employees from the hardship that will be caused if recovery is ordered. But,



if in a given case, it is proved that the employee had knowledge that the payment received was in excess of what was due or wrongly paid, or in cases where the error is detected or corrected within a short time of wrong payment, the matter being in the realm of judicial discretion, courts may, on the facts and circumstances of any particular case, order for recovery of the amount paid in excess?.

13. Thus it is clear that the relief against recovery is granted by Courts not because of any right vested in the employees, but in equity, exercising judicial discretion to relieve the employees from the hardship that will be caused if recovery is ordered. In the case on hand, the excess amount that has been paid to the petitioner was not because of any misrepresentation or fraud on her part. The petitioner also absolutely had no knowledge that the incentives that were being paid to her was contrary to the Government Order. In fact, the G.O.Ms.No.324 dated 25.04.1995 is clear that those who have acquired higher qualifications obtained in subjects which form part of the Higher Secondary syllabus shall be entitled to grant of incentive increments. Therefore, only on the basis of the Government Order, the petitioner was granted incentive increment. Therefore, it cannot be stated that the incentive increment was granted to the petitioner by wrong interpretation of Government Order in G.O.Ms.No.324 dated 25.04.1995.



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14. The Director of Elementary Education issued a clarificatory letter on 24.08.2016 restricting the benefit of incentive increments only to those subjects that are normally taught in schools, namely, Tamil, English, Mathematics, Science and Social Science. The said letter specifically excluded degrees obtained in Commerce, Economics and Computer Science etc., from being considered for grant of incentive increments. The said letter overrides the effect of G.O.Ms.No.324 dated 25.04.1995. Therefore, the Government letter dated 24.08.2016 cannot be considered for any purpose when the Government passed an order under the orders of the Governor of the State.

15. Further, the issue with regard to denial of 2nd increment for M.Sc., degree dealt with by this Court in W.P.(MD).No.3697 of 2018 and this Court by order dated 25.01.2022 held that the conditions imposed in G.O.Ms.No.624 dated 13.07.1992 stand effaced. The earliest Government Order issued in this connection, is in the spirit of encouragement and to stimulate the appetite of teachers for study and exploration of different subjects. Any curtailment in this regard would be anathema and the removal of the conditions is, in my view, a proper and appropriate move. Therefore, the petitioner is entitled for her incentive increment which were already granted to him as per G.O.Ms.No.324, dated 25.04.1995.

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16. Though the impugned orders were passed by referring to the order passed by the Madurai Bench of this Court in W.P.(MD).No.22704 of 2018 dated 21.01.2025, it failed to consider the order passed by the Hon'ble Division Bench of this Court in W.A.No.2747 of 2023 dated 28.03.2025 in which this Court had categorically held that as per G.O.(Ms) No.324 dated 25.04.1995, all higher qualifications obtained in subjects which form part of the higher secondary syllabus shall be entitled to grant of incentive increments.

17. In view of the above, the order impugned cannot be sustained in toto and it has to be quashed and the impugned order is hereby quashed.

18. Accordingly, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

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Index : Yes/No
Speaking Order: Yes/No
Neutral Citation : Yes/No
(shr)



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To

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Rep. By Its Secretary To Government,
School Education Department, Fort St. George,
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- 2.The Director Of Elementary Education
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