



WEB COPY



W.P.No.46629 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.12.2025

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.46629 of 2025

W.M.P.Nos.52022 & 52024 of 2025

K.Vanangamudi

... 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)
School Education Department
Coimbatore.

3.The Chief Educational Officer,
O/o The Chief Educational Officer
Coimbatore District-1, Coimbatore.

4.The Headmaster,
Government Higher Secondary School,
Theethipalayam, Coimbatore
Coimbatore District-641 010.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd Respondent in proceedings having Ref.No.Na.Ka.No.838/E3/2019 dated 10.07.2020 raising audit objection to the grant of incentive for the M.Phil Degree obtained through part time mode and ordering recovery of the incentive granted to the Petitioner from the salary of the Petitioner from 01.11.2018 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.



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For Petitioner : M/s.K.Chandra
For Respondents : Mrs.S.Mythreye Chandru,
Special Government Pleader
for RR-1 to 4

ORDER

Mrs.S.Mythreye Chandru, learned Special Government Pleader takes notice on behalf of respondents.

2. By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

3. The present Writ Petition has been filed challenging the order of recovery passed by the 2nd respondent, raising audit objection for grant of incentive to the employees who have completed M.Phil Degree through part time mode.

4. It is the case of the petitioner that he was appointed as B.T Assistant in the Government Higher Secondary School on 17.12.2012, Theethipalayam, Coimbatore District. He completed his M.Phil degree in the year 2018 from Bharathiar University, Coimbatore through part time mode, after obtaining due permission from the 3rd respondent. In respect of which, the petitioner was granted salary increments. Whiles, the 2nd respondent, by impugned proceedings dated 10.07.2020, held that, from the academic year 2007-08, that the salary



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increments granted to the employees who have obtained degrees through Correspondent/Distant Education Mode/Open University/Part time mode are ineligible for appointment in Government Service and ordered for recovery of the increments.

5. Learned counsel appearing for the petitioner submitted that the Audit objection has been raised citing G.O.Ms.No.91 Higher Education (K2) Department dated 03.04.2009 which disqualifies the persons who have obtained the degree through Distance Mode/Open University/Part time etc to be appointed in Government Service. He further submitted that the issue involved in the instant Writ Petition is squarely covered by the Division Bench of this Court in W.A.No.2328 of 2018 dated 04.08.2023 wherein, it is held that the said G.O does not deal with anything regarding allowing of advance incentive increment to the teachers who acquired higher qualification. Accordingly, he prayed for allowing the Writ Petition.

6. Learned Special Government Pleader appearing for the respondents fairly acceded to the submissions made by the learned counsel for the petitioner.

7. Heard the learned counsel appearing on either side and perused the materials available on record.



8. The issue involved in the instant writ petition is squarely covered by the order dated 04.08.2023 passed by this Court in W.A.No.2328 of 2018. For better appreciation, relevant portion of the said order is extracted hereunder:

“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.Phill and Ph.D degree 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 of 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.



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9. In view of the aforesaid decision, the Writ Petition is allowed and the impugned order passed by the 2nd respondent dated 10.07.2020 is hereby set aside. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes / No

Speaking Order / Non-speaking order

Neutral Citation Case : Yes / No

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M.DHANDAPANI, J

Nhs

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