



W.P.No.48818 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.48818 of 2025

and

W.M.P.Nos. 54503 & 54506 of 2025

J.Esakkiammal

... 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 Office,
Salem District, Coimbatore.
- 4.The Headmaster,
Government Girls Higher Secondary School,
Athur, Salem District – 636 102.

....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 of the 2nd respondent in proceedings having Ref.No.Na.Ka.No.2143/E3/2019 dated 05.10.2019 raising audit objection to the grant of incentive for the M.Phil Degree obtained through distance mode and ordering recovery of the incentive granted to the petitioner from the salary of the petitioner from 18.01.2013 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 along with petitioner's salary.

For Petitioner : Ms.K.Chandra

For Respondents : Ms.Mythreye Chandru
Special Government Pleader

ORDER

By consent, the writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records of the proceedings of the



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second respondent dated 05.10.2019 raising audit objection to the grant of incentive for the M.Phil Degree obtained through distance mode and ordering recovery of the incentive granted to the petitioner from the salary of the petitioner from 18.01.2013 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 along with petitioner's salary.

3.The learned counsel appearing for the petitioner submitted that the petitioner was appointed as Cluster Resource Teacher Educator in Chennimalai Block, Erode District on 17.07.2006 and is presently working as PG Assistant in Government Girls Higher Secondary School, Athur, Salem. The petitioner completed M.Phil Degree Course in the year 2011 from Annamalai University after obtaining necessary permission from the Planning Controller for which, incentive increment was also sanctioned to the petitioner. However, after a decade, the second respondent has issued the impugned proceedings raising audit objection for grant of incentive to the petitioner on the ground that the petitioner did not obtain permission



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from the Joint Director of School Education and that the petitioner obtained the higher education through the distance mode and sought recovery of the amount granted to her.

4.The learned counsel appearing for the petitioner further submitted that the Headmaster have the power to give permission to the Teachers working in the School for pursuing higher studies. The learned counsel further submitted that the Hon'ble Division Bench of this Court in ***W.A.Nos.2328 of 2018 etc., batch [S.Sivan Vs. The Regional Accounts Officer and others]*** dated ***04.08.2023*** has held that the Government Order in G.O.Ms.No.91, Higher Education Department, dated 03.04.2009 has only mentioned about the eligibility for a person to get employment and does not deal with anything about allowing of advance incentive increment to the Teachers who acquired higher qualification and prayed for allowing the writ petition.

5.The learned Special Government Pleader fairly submitted that as per the proceedings of the Director of School Education dated 12.04.2001, in



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Government High/ Higher Secondary Schools, the Headmaster of the School

have the power to give permission to the Teachers working in the School for pursuing higher studies. In the present case, the petitioner has obtained permission for pursuing M.Phil Degree from the Headmaster of Government Higher Secondary School, Alandurai, Coimbatore, however, the said fact has not been properly appreciated by the respondents.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.The petitioner was appointed as Cluster Resource Teacher Educator in Chennimalai Block, Erode District on 17.07.2006 and is presently working as PG Assistant in Government Girls Higher Secondary School, Athur, Salem. The petitioner completed M.Phil Degree Course in the year 2011 from Annamalai University after obtaining necessary permission from the Headmaster Government Higher Secondary School, Athur, Salem.



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8.It is equally un-disputed fact that as per the proceedings of the Director of School Education dated 12.04.2001, in Government High/ Higher Secondary Schools, the Headmaster of the School have the power to give permission to the Teachers working in the School for pursuing higher studies.

9.Insofar as the issue with regard to obtaining higher degrees for getting increments is concerned, the same has been decided by the Hon^{ble} Division Bench of this Court in ***W.A.Nos.2328 of 2018 etc., batch [S.Sivan Vs. The Regional Accounts Officer and others]*** dated **04.08.2023** and it is useful to extract hereunder the relevant portion of the said judgment:

“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 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-inancing colleges,



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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.”

10. In the decision cited supra, the Hon'ble Division Bench of this Court has clearly held that 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.



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11. In view of all the above, the writ petition is allowed. The proceedings of the second respondent having Ref.No.Na.Ka. No.2143/E3/2019, dated 05.10.2019 is set aside. No costs. Consequently, the connected miscellaneous petitions are closed.

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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
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M.DHANDAPANI, J.

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