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W.P. No.47709 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2025

CORAM:

THE HON'BLE MR. JUSTICE M. DHANDAPANI

W.P. No.47709 of 2025

and

W.M.P. Nos.53248 and 53250 of 2025

M.Vidhya

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,
Vellore District, Vellore.

4.The Headmaster
Government Girls Higher Secondary School,
Paradarami, Vellore District.

Respondents

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 2nd respondent in proceedings having Ref. No.Na.Ka. No.1350 /E4/ 2019 dt 1/8



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22/09/ 2019 raising audit objection to the grant of incentive for the M.Phil Degree obtained through part time and ordering recovery of the incentive granted to the petitioner from 27.09.2017 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 and pass.

For petitioner : Ms.K. Chandra

For respondents : Ms. Mythreye Chandru
Spl. Govt. Pleader

ORDER

Ms.Mythreye Chandru, learned Special Government Pleader takes notice respondents. With the consent of both the parties, the writ petition is taken up for final disposal today at the stage of admission itself.

2. Short facts :-

a) The petitioner, presently working as a Post Graduate Assistant in Government Girls Higher Secondary School, Coimbatore, seeks issuance of a Writ of Certiorarified Mandamus to quash the impugned proceedings issued by the 2nd respondent dated 22.09.2019 in Na.Ka.No.1350/E14/2019 raising audit objection for grant of incentive increment to her and consequential directions to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree along with her salary.



b) It is her contention that prior she joined as PG Assistant on 22.09.2017, whereas she pursued and completed M.Phil in the month of July 2017, i.e., prior to her appointment and obtained the said degree from Mother Teresa Women's University, Kodaikkanal. Further, it is stated that as per G.O. 1(D) No.18, School Education (E2) Department, dated 18.01.2013, she is entitled to receive the incentive increment for obtaining the M.Phil degree through distance mode and the 4th respondent vide proceedings dated 10.04.2019, granted the same. While so, subsequently based on an audit objection, the 2nd respondent vide proceedings dated 22.09.2019 has stated that the petitioner was not eligible for incentive increment amount and ordered the 4th respondent to recover the same from the petitioner's salary. Aggrieved by the same, this writ petition has been filed with the aforesaid prayer.

3. Learned counsel for the petitioner submitted that the petitioner joined as PG Assistant during the month of September 2017 and having completed her M.Phil Degree in July 2017 itself, which is prior to her date of joining. Relying on G.O.(1D) No.18, School Education (E2) Department dated 18.01.2013, she contended that M.Phil and Ph.D degrees acquired through Distance Education/Part-time mode are eligible for grant of incentive increments to BT Assistants, and therefore, the petitioner ought to have been sanctioned the incentive increment from the date of joining.



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4. She further submitted that the impugned proceedings suffer from non-application of mind, as the 2nd respondent erroneously treated the distance education qualification as ineligible for incentive increment without considering the specific Government order that governs grant of incentive increment. She further argued that the impugned order directing recovery has been passed without issuance of any show cause notice to the petitioner, violating principles of natural justice. She also contended that 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. On the aforesaid points, she prayed for quashment of impugned proceedings dated 22.09.2019 as well as sought consequential directions to pay the incentive increment to the petitioner for having acquired M.Phil Degree. Thus, she prayed for allowing of this writ petition.

5. Learned Special Government Pleader fairly submitted as per the decision rendered by the Hon'ble Division Bench of this Court on 04.08.2023 in W.A. Nos.2328 of 2018 etc., batch, in the case of ***S.Sivan Vs. The Regional Accounts Officer and others***, the petitioner's claim with regard to sanction of incentive increment for M.Phil degree acquired, prior to her appointment will be considered and orders will be passed in accordance with law.



6. I have heard the arguments on either side and perused the materials placed on record.

7. It is an undisputed fact that the petitioner obtained M.Phil Degree, prior to her appointment in Government Service. On a reading of G.O.(1D) No.18, School Education (E2) Department dated 18.01.2013, it states that M.Phil and Ph.D degrees obtained through Distance Education/Part-time mode as eligible qualification for grant of additional increment to BT Assistants. Thus, it is clear that the impugned proceedings dated 22.09.2019 is found to be an erroneous interpretation of earlier Government Orders that deal with eligibility for appointment and not the grant of incentive increments to working teachers. Though it is the stand of the petitioner that show cause notice was not issued, prior to issuing of the impugned proceedings, it is evident from the settled position, otherwise it can be said that by following the decision of the Hon'ble Division Bench of this Court in W.A.Nos.2328 of 2018 etc., batch dated 04.08.2023, this Court is inclined to set aside the impugned proceedings dated 22.09.2019. The relevant paragraph of the said judgment 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.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-financing colleges, therefore the import of the said G.O.Ms.No.91, Higher Education Department, 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.”

8. Accordingly, this Court is of the view that the impugned proceedings dated 22.09.2019 issued by the 2nd respondent is based on incorrect legal premise and non-application of mind and therefore, the same is hereby set aside and the 2nd respondent is directed to pass orders afresh on merits and in accordance with law.



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9. In the result, the writ petition stands allowed with the aforesaid directions. No costs. Consequently, connected miscellaneous petitions are closed.

15.12.2025

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

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