



W.P.(MD).No.1196 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.06.2025

CORAM:

THE HONOURABLE **MR.JUSTICE VIVEK KUMAR SINGH**

W.P.(MD)No.1196 of 2025
and
W.M.P.(MD)No.810 of 2025

C.Vijayalakshmi

... Petitioner

-VS-

1. The Government of Tamil Nadu,
Rep. by Secretary to Government,
School Education Department,
Fort St.George, Chennai 09.
2. The Financial Advisor And The Chief Accountant Officer,
School Education Department,
College Road, Chennai 6.
3. The Chief Educational Officer (Secondary),
O/o. the Chief Educational Officer,
Nagercoil, Kanyakumari District.
4. The Headmaster,
Government High School,
Vembanoor Post,
Kanniyakumari District 629 801.
5. The Assistant Controller Of Examinations,
Vinayaka Missions University,
Salem.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the impugned Audit Objection raised by the 2nd respondent nil dated with regard to the M.Phil Degree obtained in the 5th respondent University and quash the same and direct the respondents to issue Clearance Certificate thereby enabling the petitioner to get the Contributory Pension Scheme benefits without any objections.

For Petitioner : Mr.R.Saravanan

For Respondents : Mr.M.Siddharthan (R1 to R4)

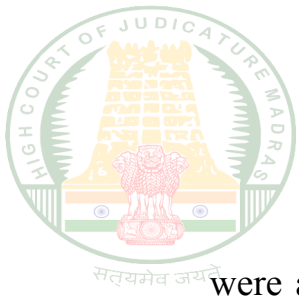
Additional Government Pleader

Mr.D.Balamurugapandi (R5)

ORDER

This writ petition has been filed challenging the impugned Audit Objection raised by the 2nd respondent nil dated with regard to the M.Phil Degree obtained in the 5th respondent University with a consequential direction to the respondents to issue 'Clearance Certificate' thereby enabling the petitioner to get the Contributory Pension Scheme benefits without any objections.

2. According to the writ petitioner, she was appointed as 'BT Teacher (English)' on 04.10.2007 in the fourth respondent school and her services



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were also regularised. The petitioner had also completed M.Phil., (English) in December, 2009 from the fifth respondent University. Based upon her higher qualification, an incentive increment was granted to her. While so, an audit objection has been raised by the second respondent by way of the impugned order regarding the M.Phil degree obtained by the petitioner through distance education from the fifth respondent University, deeming it invalid and recovery of the incentive increment. Challenging the same, this writ petition came to be filed.

3. The learned counsel appearing for the petitioner brought to the notice of the Court, a judgment of the Hon'ble Division Bench of this Court in a batch of writ appeals in **W.A.Nos.2328 of 2018 etc. (S.Sivan vs. The Regional Accounts Officer and Others)** dated **04.08.2023**, wherein this Court in Paragraph No.24 had pointed out that for the period between 2007 and 2012, the University Grants Commission has granted recognition to the fifth respondent University for conducting M.Phil., courses through distance education. Based upon the said fact, the Hon'ble Division Bench of this Court allowed the writ appeals filed by the concerned Teachers and directed the authorities to confer with the incentive increment.



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4. Per contra, the learned Additional Government Pleader appearing for the official respondents pointed out that under G.O.(Ms)No.91, Higher Education (K2) Department, dated 03.04.2009, a direction has been issued by the Higher Education Department that, M.Phil / Ph.D. courses should not be offered through distance education from the academic year 2007 - 2008 and they should be offered only in the regular stream. Therefore, the learned Additional Government Pleader prayed for dismissal of the Writ Petition.

5. Heard the submissions made on either side and perused the materials available on record.

6. There is no dispute that the petitioner had completed M.Phil course in the year 2009 in the fifth respondent University through distance education. The Hon'ble Division Bench of this Court in **W.A.Nos.2328 of 2018 etc. batch**, dated **04.08.2023** had an occasion to consider G.O(Ms)No. 91, dated 03.04.2009. In Paragraph Nos.33 and 34 of the said judgment, the Hon'ble Division Bench of this Court has held that the bar under G.O(Ms)No. 91 will apply only for the entry level post and it would not be a bar for conferment of incentive increment.



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7. In view of the above said facts, the respondents are directed to refund the withheld incentive increment to the petitioner and continue to pay the incentive increment for the petitioner's M.Phil degree.

8. With the above directions, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

26.06.2025

NCC : Yes/No
Index : Yes / No
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TO:-

1. The Secretary to Government,
School Education Department,
Fort St.George, Chennai 09.
2. The Financial Advisor And The Chief Accountant Officer,
School Education Department,
College Road, Chennai 6.
3. The Chief Educational Officer (Secondary),
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VIVEK KUMAR SINGH, J.

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Order made in
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