



WP(MD)No.7130 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.7130 of 2021
and
WMP(MD)No.5449 of 2021**

M.Daniel

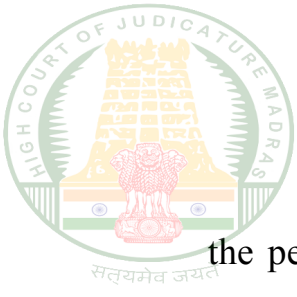
... Petitioner

Vs

- 1.The Chief Educational Officer,
Kanyakumari District.**
- 2.The District Educational Officer,
Thiruvattar, Kanyakumari District.**
- 3.The Correspondent,
Arunachalam Higher Secondary School,
Thiruvattar – 629 177,
Kanyakumari District.**

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records relating tot he impugned order issued by the 2nd respondent herein in O.Mu.No.373/219 dated 19.02.2019, quash the same insofar as refusing incentive increments for M.Phil degree alone and further direct the respondent herein to approve and disburse the incentive increment to



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the petitioner from the date of acquiring higher qualification of M.Phil degree.

For Petitioner : Mr.E.V.N.Siva

For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

ORDER

The petitioner was appointed as a Physical Education Teacher on 03.06.1993 in the 2nd respondent school. The petitioner was having qualification of B.A and M.PEd. Subsequently, he has completed M.Phil in the year 2008. Therefore, this writ petitioner has made a request for incentive increment for his higher qualification of M.Phil and the same was rejected by the respondents based on the conditions imposed at the time of appointment. Challenging the same, this writ petition is filed.

2.The learned Counsel for the petitioner submits that the petitioner is eligible for incentive increment for his higher qualification of M.Phil and however it has been rejected by the respondents.



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3.The learned Additional Government Pleader appearing for the respondents submits that the petitioner was appointed as a Physical Education Teacher in the year 1993. He was having qualification of B.A and M.PEd. He was appointed on condition that he will not be paid any incentive increment for his higher qualification. He has subsequently acquired MPhil degree and claims incentive increment. Having agreed for condition that no incentive increment will be paid, has claimed incentive increment. At the time of appointment no increment was provided for M.Phil degree and it was granted only with effect from 13.10.2016. The petitioner got retired on 30.06.2018. The petitioner has studied this degree through correspondence. The Government has taken a policy decision that the courses like M.Phil / Ph.D cannot be offered by way of a correspondence course / distance education and therefore, the Government has passed G.O.Ms.No.91, Higher Education Department, dated 03.04.2009.Even before this Government Order, a decision was taken by the Government in the Vice Chancellors' meeting that the University shall not provide M.Phil / Ph.D courses through distance education from the Academic Year 2007-08. Therefore, the petitioner is not eligible for incentive increment for MPhil degree.



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4.This Court considered the rival submissions and perused the materials placed on record.

5.Admittedly the petitioner was appointed as a Physical Education Teacher in the year 1993 with the qualification of B.A., M.PEd on condition that he should not claim incentive increment for his higher qualification. During the service the petitioner acquired MPhil degree. At the time of his appointment no increment was provided for M.Phil degree and it was granted only with effect from 13.10.2016. The petitioner got retired on 30.06.2018. Further it appears that the petitioner has acquired this MPhil degree through distance education. This Court is not inclined to accede with the contention of the petitioner. The Government has taken the policy decision that the courses like M.Phil / Ph.D cannot be offered by way of a correspondence course / distance education and therefore, the Government has specifically passed a Government order in G.O.Ms.No.91, Higher Education Department, dated 03.04.2009 to this effect. The qualification in such courses, which were obtained through distance educations, were held to be ineligible even for appointments.



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6. Accordingly, this writ petition is dismissed. No costs.

Consequently connected miscellaneous petition is closed.

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DSK

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B.PUGALENDHI.J.,

DSK

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