

W.P.(MD)No.11147 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.04.2025

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.11147 of 2025
and
W.M.P(MD)No.8306 of 2025

D.Marial

... Petitioner

Vs.

- 1.The Director of Elementary Education,
DPI Campus,
Chennai 6
- 2.The District Educational Officer (Elementary),
Kovilpatti,
Thoothukudi District.
- 3.The Block Educational Officer,
Vilathikulam,
Thoothukudi District.
- 4.The Principal Accountant General,
Office of the Accountant General (A and E),
361, Anna Salai,
Teynampet,
Chennai 18.
- 5.The Correspondent,
TNDTA Middle School,
Marthandampatti,
Vilathikulam Taluk,
Thoothukudi District.



W.P.(MD)No.11147 of 2025

6.The District Treasury Officer,
Thoothukudi,
Thoothukudi District.

7.The Sub Treasury Officer,
Vilathikulam,
Thoothukudi District.

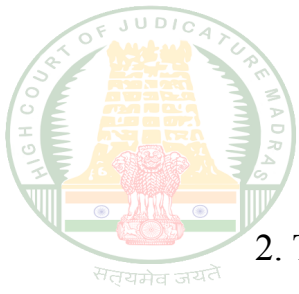
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.687/A1/2024, dated 24.02.2025 and the Impugned Order in Na.Ka.No.687/A1/2024, dated 24.02.2025 on the file of the third Respondent and the consequential impugned order in No.AG(A and E)/PEN E22/12231211/1/R2330789/548 dated 25.03.2025 on the file of the fourth Respondent and quash the same as illegal and consequently for a direction, forbearing the third Respondent from reducing or refixing the pension of the petitioner.

For Petitioner : Mr.T.Aswin Raja Simman
For R1 to R3, R6, R7 : Mr.M.Siddharthan
Additional Government Pleader
For R4 : M/s.S.Mahalakshmi

ORDER

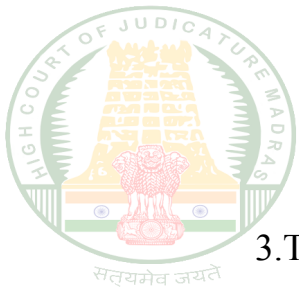
This writ petition is filed against the orders, dated 24.02.2025 and 25.03.2025 and consequently forbearing the third respondent from reducing or refixing the pension of the petitioner.



W.P.(MD)No.11147 of 2025

2. The case of the petitioner is that she was appointed as Secondary Grade

Teacher on 07.06.1989 in the fifth respondent School. After rendering more than 10 years, she was promoted to the Primary School Head Master on 06.06.2000. Thereafter, she was promoted as Middle School Head Master on 13.06.2012. She was promoted on the basis of B.Lit., qualification. She completed B.Ed., degree in the year 2014. Accordingly, she was granted incentive increment for acquiring B.Ed., degree with effect from 01.06.2014. She was permitted to retire on voluntary retirement on 31.10.2023. Though the petitioner retired on 31.10.2023, the fourth respondent has sanctioned the pension to her only on 12.07.2024. The respondents 3 and 4 has released the pension alone but the petitioner's gratuity and leave salary has not been disbursed. At this juncture, the third respondent without issuing any notice or providing any opportunity of hearing has passed the impugned order, dated 24.02.2025, in which, he has unilaterally revised the pension of the petitioner with effect from 01.06.2014 by cancelling the incentive increment granted to the petitioner for acquiring B.ED., degree. The third respondent has issued the impugned order for recovery of amount of Rs.5,71,386/- and instructed the petitioner to deposit the same in the Government Account. Aggrieved by the said order, the present writ petition is filed.

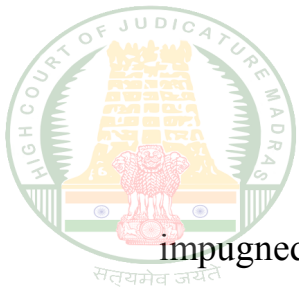


W.P.(MD)No.11147 of 2025

3.The learned counsel for the petitioner contends that the issue involved in the present writ petition is no longer *res integra* and it is covered by the decisions of this Court. The learned counsel for the petitioner further contends that the impugned order is passed based on the Government Letter No.3702/Tho.Ka.1 (2)/2017, dated 10.10.2017, which was already quashed by this Court by order, dated 05.04.2017 in W.P(MD)No.21368 of 2014 and W.P.(MD)No.4332 of 2015. The learned counsel for the petitioner also submits that no appeal has been filed against the orders passed in the aforesaid writ petitions. Accordingly, following the same, this Court passed similar order, dated 27.10.2021 in W.P.No.22907 of 2021.

4.The learned Additional Government Pleader for the respondents 1 to 3, 6 and 7 would submit that the audit department also raised certain objections against granting incentive to the petitioner and taking into consideration of the same, the impugned order is passed and as such, he would submit that there is no illegality or infirmity in the orders impugned in this writ petition.

5. Having considered the facts and circumstances of the case and on careful perusal of the materials available on record, it appears that admittedly in the present case no notice is issued to the petitioner before passing the



W.P.(MD)No.11147 of 2025

impugned orders and no opportunity is provided to the petitioner to put forth his

case by granting personal hearing. On these two reasons, in the considered opinion of this Court, the impugned orders are liable to be quashed on the ground of violation of principles of natural justice. Besides this, the issue involved in the present writ petition is squarely covered by the decision of this Court in W.P(MD)No.21368 of 2014 and W.P.(MD)No.4332 of 2015 vide its order, dated 05.04.2017. The same order was followed in W.P.No.22907 of 2021, dated 27.10.2021. The relevant portion of the said order is extracted herein under:

“6. Appearing on behalf of the respondents, learned Government Advocate fairly submits that the issue is now considered by the aforesaid order of the Madurai Bench of this Court and that no further appeal has been filed against the said order. The operative portion from the said order reads as under:-

“8.The conduct of the respondents also has to be taken note of. It is seen that the respondents have recognized the entitlement of the petitioners to receive incentive increment at the earlier point of time and now they are trying to give a different interpretation to the proceedings and clarifications, which are purely internal with in the Department of Education. The respondents are trying to deviate from the original stand taken and trying to deprive the petitioners of the benefit extended to them for a long number of years. In such circumstances, this Court is not inclined to accept the case of the respondents regarding the entitlement of the petitioners to incentive increment.

9.The case of the respondents in the counter affidavit is only to the effect that the petitioners, after becoming Headmistress of the Middle School, are not entitled to get incentive increments for acquiring B.Ed. Degree. It is contended



W.P.(MD)No.11147 of 2025

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that the petitioners acquired B.Ed., after becoming Middle School Headmistress and that since B.Ed., Degree is a required basic qualification for appointment of Middle School Headmistress, as clarified by the Director of Elementary Education, the petitioners are not entitled to incentive increment for acquiring B.Ed. Degree. In support of this, the proceedings of the Joint Director of Elementary Education, dated 07.11.2014, was relied upon.

10.In the present cases, the petitioners were working as Primary School Headmistress from 17.06.2003 and 23.07.2007 respectively. The petitioners also became Middle School Headmistress in 2007 and 2010, respectively. The fact that the petitioners were given incentive increment for acquiring B.Ed., qualification after this promotion as Middle School Headmistress is admitted and the clarification of second respondent reflect the correct position. In such circumstances, this Court is of the considered opinion that the petitioners are entitled to get incentive increment for acquiring additional qualification as per the earlier proceedings of the Director of Elementary Education, dated 07.06.1991 and the same cannot be stopped or denied in view of the qualification prescribed later in the year 2013.

11.In view of the forgoing reasons, this Court finds that there is no merits in the contention of the respondents. Hence, these Writ Petitions deserve to be allowed.

12.In the result, the impugned orders passed vide proceedings in Na.Ka.No839/A/20104 by District Elementary Educational officer, dated 22.12.2014 and vide proceedings in Na.Ka.No.783/A2/2014, dated 20.01.2015, by the Additional Assistant Educational Officer, Tirunelveli District, challenged in the two Writ Petitions are quashed. The respondents are directed to pay incentive increment to the petitioners in terms of the earlier order of the Government as clarified by proceedings of the Director of Elementary Education, dated 07.06.1991.””

6. Since the issue is squarely covered by the above decision of this Court and there is violation of principles of natural justice in passing the impugned order, this Court is inclined to allow this writ petition.



W.P.(MD)No.11147 of 2025

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7. Accordingly, for the reasons stated above, this writ petition is allowed and the orders impugned in this writ petition is hereby quashed.

No costs.

Consequently, the connected miscellaneous petition is closed.

22.04.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
Sn

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W.P.(MD)No.11147 of 2025

BATTU DEVANAND, J.

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W.P.(MD)No.11147 of 2025

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