

W.P.(MD)No.15234 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.15234 of 2025

T. Amirtha

... Petitioner

-VS-

1.The Government of Tamil Nadu,
Rep. by Secretary to Government,
School Education Department,
Fort St. George, Chennai - 09.

2.The Director of School Education,
College Road, Chennai - 6.

3.The Finance Advisor / Principal Accounts Officer,
Director of School Education,
College Road, Chennai.

4.The District Educational Officer (Secondary),
O/o. the District Educational Office,
Theni District.

5.The Secretary,
Nadar Sarashwathi Girls Higher Secondary School,
Theni District - 625 531.

6.The Assistant Controller of Examinations,
Vinayaka Missions University,
Salem.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to refund the withheld incentive increment of Rs.8,26,981/- and continue to pay the incentive increment for the petitioner's M.Phil Degree, within the time limit stipulated by this Court.

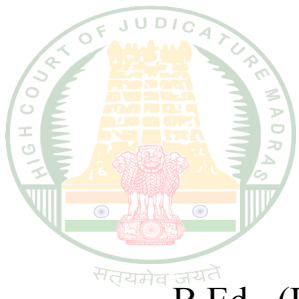
For Petitioner : Mr.R.Saravanan
For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking a direction to the respondents to refund the withheld incentive increment of Rs.8,26,981/- and continue to pay the incentive increment for the petitioner's M.Phil Degree.

2. By consent, this Writ Petition is taken up for final disposal at the admission stage itself.

3. According to the writ petitioner, she joined as a Post Graduate Teacher on 05.06.2000 at the fifth respondent School and her services were regularised on 05.06.2001. At the time of joining service, the petitioner had completed M.Sc.,



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B.Ed., (Physics) degree. She completed M.Phil., (Physics) in June, 2008 from the sixth respondent University. Based upon her higher qualifications, an incentive increment was granted to her. While so, the third respondent issued a letter dated 15.05.2020 to the fifth respondent School stating that there is an audit objection regarding the M.Phil degree obtained by the petitioner through distance education from the sixth respondent University, deeming it invalid. Hence, the petitioner submitted a consent letter stating that the incentive increment of Rs.8,26,981/- granted to her shall be withheld from her Death-cum-Retirement Gratuity (DCRG).

4. The petitioner had 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 sixth respondent University for conducting M.Phil., courses through distance education. Based upon the said fact, the Hon'ble Division Bench of this Court was pleased to allow the writ appeals filed by the concerned Teachers and directed the authorities to confer with the incentive increment.



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5. 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.

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

7. There is no dispute that the petitioner had completed M.Phil course in the year 2008 in the sixth 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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8. In view of the above said facts, the respondents are directed to refund the withheld incentive increment of Rs.8,26,981/- to the petitioner and continue to pay the incentive increment for the petitioner's M.Phil degree.

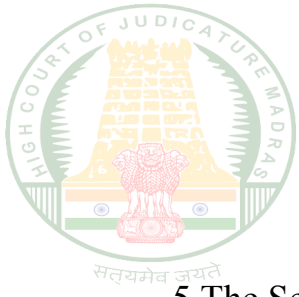
9. With the above observations, this Writ Petition stands allowed. There shall be no order as to costs.

NCC : Yes / No
Index : Yes / No
smn2

05.06.2025

To:-

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VIVEK KUMAR SINGH, J.

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