



WP(MD)No.19332 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 06.01.2025

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THE HONOURABLE MR. JUSTICE B.PUGALENDHI

WP(MD)No.19332 of 2019

and

W.M.P.(MD)Nos.15759 of 2019 and 15760 of 2019

T.Gladstone Heeber

... Petitioner

versus

1. The Government of Tamil Nadu,
Rep. by the Secretary to Government,
Education Department,
Fort St. George,
Chennai – 600 009.

2. The Director of School Education,
Elementary Education,
College Road,
Chennai – 600 006.

3. The Block Educational Officer II,
Radhapuram,
Tirunelveli District – 627 111.

4. The Superintendent of Audit
(Elementary Education),
Madurai Region,
District Elementary Education Office,
Thirumangalam,
Madurai District – 625 706.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order of recovery passed by the 3rd respondent made in Na.Ka.No.677/A1/2019 dated 26.08.2019 based on the audit objection of the 4th respondent in Na.Ka.No.6129/E/2018 dated 28.05.2019 and quash the same and direct the respondents to continue to pay the two increments sanctioned in Om.Mu.No.052/Aa2/2016 dated 12.02.2016.

For Petitioner : No appearance

For Respondents : Mr.K.Balasubramani,
Special Government Pleader

ORDER

The petitioner is a Secondary Grade Teacher. For having acquired M.Com. degree and B.Ed. degree, the petitioner was granted two incentive increments, by the 3rd respondent, by his proceedings dated 12.02.2016. Subsequently, based on the audit objection of the 4th respondent dated 28.05.2019, the 3rd respondent, by his proceedings dated 26.08.2019, cancelled the incentive increments granted to the petitioner and revised the scale of pay and also ordered for recovery of the amount which has already been provided to the petitioner as incentive increment. Challenging the same, the petitioner has filed this writ



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petition.

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2. This Court, while entertaining this writ petition, has granted an order of interim stay on 06.09.2019. The respondents have filed a petition in W.M.P.(MD)No.22395 of 2019 to vacate the interim order. This Court, by order dated 18.12.2024, has vacated the interim order and posted the writ petition for final disposal today. Today, there is no representation for the petitioner.

3. The learned Special Government Pleader, by referring G.O.(Ms) No.42 dated 10.01.1969 submits that based on G.O.(Ms)No.42, the incentive increments were granted to the Teachers. The petitioner is a Secondary Grade Teacher. The qualification of M.Com. degree is not a criteria for grant of incentive increment. However, incentive increments have wrongly been granted to the petitioner and that was detected during the audit and based on the audit objection, it was rectified by the order impugned in this writ petition. In support of his contention, the learned Special Government Pleader has also relied on the following Judgments:

(i) S.Thangathai vs. The Director of School



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Education, Chennai and 2 others (W.A.(MD)No.918 of 2015 dated 17.12.2015);

(ii) J.N.Nirmala Devi vs. The Block Educational Officer, Tuticorin Urban (Levinchipuram Municipal Middle School Campus), Tuticorin (W.P.(MD)No.4305 of 2020 dated 03.01.2023);

(iii) A.Ravi and 3 others vs. The State of Tamil Nadu, Rep. By its Principal Secretary to Government, School Education Department, Chennai – 600 009 (W.P.No.4160 of 2020 dated 02.07.2024); and

(iv) M.Pandiarani vs. The Director of Elementary School Education, College Road, Chennai – 6 and 2 others (W.P.(MD)No.13681 of 2023 dated 13.11.2024).

4. This Court considered the submissions of the learned Special Government Pleader and perused the materials and grounds raised by the petitioner in support of this writ petition.



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5. The petitioner is a Secondary Grade Teacher. He has been provided with incentive increments for having acquired M.Com. Degree and B.Ed. Degree. The petitioner, a Secondary Grade Teacher, would be taking subjects upto 1st standard to 8th Standard and the subject of M.Com. Degree is no way related to his service. However, the incentive increment was wrongly granted to the petitioner and subsequently, it was rectified, based on the objections raised by the Audit Department.

6. This issue was already dealt with by this Court in W.P.(MD)No. 4305 of 2020, wherein, this Court, by following a Judgment of the Division Bench of this Court in *Sakthivel vs. The Secretary to Government, Education Department and others (W.A.(MD)No.910 of 2022)*, has held as under:

“6. The facts in the present case are not in dispute. Admittedly, the petitioner entered into service as a Secondary Grade Teacher teaching class 1 to 5 and she acquired higher qualification i.e. B.A. Economics, M.A. Economics and B.Ed. degree. It is also admitted fact that the respondent granted incentive increment in favour of the petitioner on 13.04.2015 for acquiring B.A. Economics and M.A. Economics. However, subsequently,



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the said incentive increment granted to the petitioner was cancelled vide impugned order, dated 31.10.2016 on the ground that the petitioner has not acquired the higher qualification in the related subject useful to the students studying in class 1 to 5 in the Elementary School and the very same matter came up for consideration before the Division Bench of this Court in W.A.(MD) No.910 of 2022 in ***R.Sakthivel Vs. The Secretary to Government, Education Department and others*** and the Division Bench of this Court held as follows :

"13. The appellant submitted that the object of granting incentive increment is to lift the morale of the teachers. But the government states that the object of granting incentive increment is to encourage the Teachers to qualify themselves, so that their qualification would be beneficial to the students. In the present case the petitioner was working as Secondary Grade Teacher taking class for students from 1 to 5 standards and the qualification of M.Sc. Physics would not be beneficial to the students studying in the standards 1 to 5. Therefore, the Government is right in denying the incentive increment for higher qualifications when the higher



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qualification is not beneficial for the students studying in 1 to 5 standards."

7. Applying the ratio laid down by the Division Bench of this Court, the syllabus for class 1 to 5 students is Tamil, English, Maths, Science and Social Science. However, B.A. Economics, M.A. Economics are not related to subjects to the students studying classes 1 to 5 and the same is not beneficial to the students studying in classes 1 to 5. Hence, the impugned order cannot be interfered with."

7. Further, this Court, in W.P.No.4160 of 2020, by following another Judgment of this Court, has passed an order as under:

"3. The entitlement or dis-entitlement of the Secondary Grade Teacher for award of incentive increment on acquiring B.Com, M.Com and B.Ed degrees has fallen for consideration before this Court recently in W.P.No.19221 of 2021. This Court by an order dated 03.06.2024 having considered the said aspect in elaborate has concluded that the Secondary Grade Teacher who acquired B.Com and M.Com degrees are not entitled for award of incentive increment in the absence of any specific Government orders providing such incentive increment and also concluded that in the light of various



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Government orders, Secondary Grade Teacher are entitled for award of incentive increment on acquiring B.Ed degree acquired after their appointment and the relevant portion from the above said order is reads as under:

“4.The award of incentive increment itself is a concessions or an advantage conferred upon various teachers but not a service condition. Concession or an advantage that is conferred by the Government on various teachers can be claimed strictly in terms of the said Government Orders but not otherwise. Admittedly, there is no Government Order providing for award of incentive increments for acquiring the B.Com/M.Com degree. However, there is a specific Government Order, as noted above, for award of incentive increments, in case if the Secondary Grade Teachers acquires the B.Ed degree. Admittedly, in the instant case the petitioner has acquired B.Ed degree after she was appointed as Secondary Grade Teacher and therefore, the entitlement of the petitioner for award and continuance of the incentive increment in respect of B.Ed qualification cannot be denied. But, unfortunately, the respondents having found that the petitioner is



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not entitled for award of incentive increment in respect of M.Com degree have erroneously canceled the advance increments awarded in favour of the petitioner even in respect of B.Ed degree as well and accordingly refixed the pay of the petitioner.

5.In the circumstances, this Court does not find any error in the impugned order, insofar as canceling the incentive increments that were awarded in respect of M.Com degree acquired by the petitioner. However, the impugned order is bound to be declared as illegal, insofar as the same cancels the incentive increment that was awarded in respect of B.Ed degree acquired by the petitioner.

6.Accordingly, the impugned order is partly set aside to the extent of canceling the incentive increment that was awarded in favour of the petitioner through proceedings dated 02.07.2015 in respect of B.Ed degree only. Accordingly, the 3rd respondent is directed to refix the pay of the petitioner duly continuing the incentive increments that were awarded in favour of the petitioner in respect of B.Ed degree and issue proceedings afresh as



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expeditiously as possible within a period of eight weeks from the date of receipt of a copy of this order. The amount if any liable to be recovered from the petitioner consequent on cancellation of the incentive increments awarded in favour of the petitioner for M.Com degree is concerned, the said amounts may be recovered from the petitioner.

7. Consequent upon refixation of the pay of the petitioner by continuing the incentive increments in respect of B.Ed degree, if any arrears are due and payable to the petitioner, the same can be adjusted against the amounts recoverable from the petitioner and the balance if any shall be paid to the petitioner.”

4. In the light of the above, the claims of the petitioner for award of incentive increment for acquiring B.A(Economics)/M.A(Economics) is not sustainable.”

8. Apart from these two Judgments, a Division Bench of this Court in WA(MD)No.918 of 2015 has passed an order as under:

“6. It is quite unfortunate that the object of grant of advance incentive increment to Teachers, is many times lost sight of. The object is to encourage Teachers to



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pursue higher education, so that the higher education that they pursue enures to the benefit of the students. In this case, the appellant is a Physical Education Teacher. We do not know how the acquisition of a Under Graduate Degree in History and Post Graduate Degree in History would have enured to the benefit of the students, especially from a Physical Education Teacher.”

9. In view of the above Judgments, this Court is not inclined to entertain this writ petition and the same is accordingly dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

06.01.2025

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NCC : Yes / No.

Index : Yes / No.

Internet: Yes / No.

To

1. The Secretary to Government,
Education Department,
Fort St. George,
Chennai – 600 009.

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B.PUGALENDHI, J.

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