

WP(MD). No.13181 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 08.01.2025

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THE HONOURABLE MR. JUSTICE B.PUGALENDHI

WP(MD)No.13181 of 2018

and

WMP(MD)Nos.12030 of 2018 and 19680 of 2023

Mabel Christy Starina

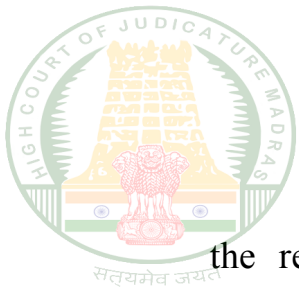
... Petitioner

versus

1. The Secretary to Government,
Education Department,
State of Tamil Nadu,
Secretariat, St. Fort George,
Chennai - 9.
2. The Director of School Education,
College Road,
Chennai - 6.
3. The District Educational Officer,
Thoothukudi District,
Thoothukudi.
4. The Correspondent,
T.D.T.A Good Shepherd High School,
Idayerkadu,
Thoothukudi District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
seeking for the issuance of a Writ of Certiorarified Mandamus, to call for



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the records relating to the orders passed by the 3rd respondent in A.THI.Mu.No.3661/A5/14 dated 08.07.2014 and O.Mu.No.5476/A5/14 dated 31.10.2014 and quash the same and consequently, direct the respondents to approve petitioner's higher qualifications of B.Lit, M.A. and B.Ed and to grant necessary incentive increments for the same within the stipulated time.

For Petitioner : Mr.T.A.Ebenezer
For R1 to R3 : Mr.K.Balasubramani,
Special Government Pleader
For R4 : Mr.T.Cibichakaraborthy

ORDER

The petitioner is working as a Secondary Grade Teacher in the 4th respondent School. During her service, she studied and passed B.Lit. (Tamil) in the month of May 2010, M.A. (Tamil) in the month May 2012 and B.Ed. Degree in the month of December 2014. Therefore, she applied for incentive increments. But, the 3rd respondent rejected the same by his proceedings dated 31.10.2014. Challenging the same, the petitioner has filed this writ petition.

2. The learned counsel appearing for the petitioner submits that the petitioner is entitled for incentive increments at par with others.



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According to him, the Government is providing incentive increment for acquiring higher education. He further submits that the similarly placed persons, who have acquired B.Lit.(Tamil), M.A. and B.Ed. have been provided incentive increments. Therefore, he requests this Court to grant similar relief to the petitioner. The learned counsel has also relied on the Judgment of the Division Bench of this Court in W.A.(MD)No.1124 of 2023, dated 24.07.2023.

3. The learned Special Government Pleader for the respondents 1 to 3 submits that the Government, vide G.O.Ms.No.37, Personnel and Administrative Reforms Department, dated 10.03.2020, has issued a direction that prior permission has to be obtained from the Department for pursuing higher education. In this case, according to the learned Special Government Pleader, the petitioner has not obtained any prior permission for pursuing her higher studies and therefore, she is not entitled for incentive increments. The learned Special Government Pleader has also relied on the Judgments of the Division Bench of this Court in W.A.No.1763 of 2022 dated 04.06.2024 and W.P.No.838 of 2024, dated 12.01.2024.



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

5. Admittedly, the petitioner has pursued her higher education without obtaining prior permission. The issue to be decided in this case is whether the petitioner, who pursued higher education without obtaining prior permission from the Department, is eligible for incentive increment or not?

6. The petitioner has entered into service as a Secondary Grade Teacher on 16.06.2000. She acquired B.Lit. degree in the year 2010, M.A. Degree in the year 2012 and B.Ed. Degree in the year 2014. Therefore, the petitioner made a request for incentive increments based on the qualifications obtained by her in the year 2014, which was rejected by the 3rd respondent by order dated 31.10.2014. The order dated 31.10.2014 is challenged in this writ petition in the year 2018.



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7. The petitioner was denied incentive increments that she pursued her higher education in the years 2010, 2012 and 2014 without prior permission. For acquiring higher education by the Government Servant, necessary permission has to be obtained. The Government, in G.O. (Ms.)No.328, P&AR (Per-A) dated 09.04.1983, has delegated powers to the Heads of Departments to accord permission to the Government Servants to join correspondence course conducted by the Universities for acquiring additional qualification. However, such permission was not available for the Teachers, who are working in the Aided schools and the Government Schools. Based on the G.O.Ms.No.328, dated 09.04.1983, a proposal was made to the Government in the year 1989. The Government, vide G.O.Ms.No.944 Education (D2) Department, dated 29.07.1989, has taken a decision permitting the Teachers, who are working in the Aided Institutions to join correspondence course or part-time course including Ph.D. for acquiring additional qualifications, however, with prior permission to be obtained from Heads of departments. The Government has also delegated the powers to the Director of School Education as under:

“(i) to accord permission in respect of employees of



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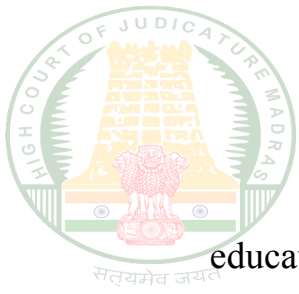
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aided schools under his control who wish to join the correspondence course conducted by the various Universities, and

(ii) to accord permission in respect of employees of aided schools who wish to do part-time course including Ph.D., conducted by the various Universities.

Subject to the condition that acquiring of such qualification is useful to the schools and without dislocation of work in schools and without any additional expenditure to the Government and also on the condition that no request for additional sanction of posts to substitute for persons who have joined the correspondence course or part-time courses will be entertained.”

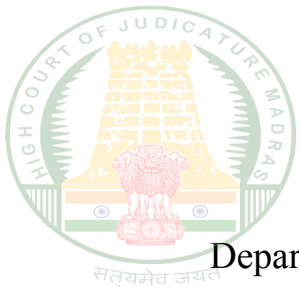
8. However, the Government has taken a policy decision to provide incentive increments for the higher qualifications vide G.O.Ms.No.42 dated 10.01.1969. The incentive increments for higher qualification has been restricted for two advance increments by G.O.Ms.No.1032 dated 22.06.1971. Various Government Orders were issued with regard to the incentive increment. The Government has taken a policy decision, vide G.O.Ms.No.95, Human Resources Management Department, dated 26.10.2023, for providing a lump sum amount for acquiring additional



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educational qualifications to the State Government employees. Therefore, after G.O.Ms.No.95 dated 26.10.2023, incentive increments are not provided to the Government Servants and also to the teachers. However, the Government was not inclined to interfere with the incentive increments, which were already provided to those, who have acquired higher education.

9. The petitioner has acquired higher education, namely, B.Lit. (Tamil), M.A.(Tamil) and B.Ed. in the years 2010, 2012, and 2014 respectively, after entering into the service in the year 2000 and admittedly, without obtaining any prior permission from the authority concerned. The requirement of prior permission for pursuing higher education was introduced by the Government even in the year 1989, by delegating power to the Director of School Education, vide G.O.Ms.No. 944, Education (D2) Department, dated 29.07.1989. Subsequently, the powers have been delegated to the District Educational Officer, vide G.O.(Ms)No.101, School Education (Budget-1) Department, dated 18.05.2018. But, the petitioner has not obtained any prior permission as directed by the Government in G.O.(Ms)No.944, Education (D2)



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Department, dated 29.07.1989 and G.O.(Ms)No.101, School Education
(Budget-1) Department, dated 18.05.2018.

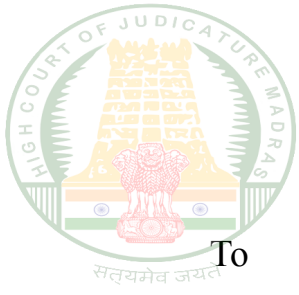
10. The petitioner has claimed that the similarly placed persons. who have acquired higher qualifications, have been provided incentive increments and she studied higher education even in the year 2010, 2012 and 2014. Therefore, she is entitled for incentive increments at par with others.

11. The requirement of prior permission for pursuing higher education was in existence even in the year 1989. Therefore, this Court is not inclined to accept the case of the petitioner.

12. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

08.01.2025

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NCC : Yes / No.
Index : Yes / No.
Internet: Yes / No.



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B.PUGALENDHI, J.

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