



W.P.(MD)No.20883 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2025

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THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.20883 of 2021

and

W.M.P.(MD)Nos.17504 & 17505 of 2021

A.Joseph

: Petitioner

Vs.

1.The Principal Secretary to the Government,
School Education Department,
Fort St. George,
Chennai – 9.

2.The Commissioner of School Education,
DPI Compound,
College Road,
Chennai – 600 006.

3.The Chief Educational Officer,
O/o. the Chief Educational Officer,
Theni District.



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4.The Head Master,

Government Higher Secondary School,

T.Subbulapuram,

Andipatti,

Theni District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.4797/A3/2013 dated 09.11.2021 on the file of the third respondent and quash the same as illegal.

For Petitioner : Mr.Karthick
for M/s.Lajapathi Roy & Associates
For Respondents : Mr.S.Shaji Bino,
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned order dated 09.11.2021, seeking to recover the incentive increment granted earlier to the petitioner on the ground that the said incentive increment was granted to the petitioner erroneously.



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2.The issue that arises for consideration in this Writ Petition is whether the benefit of second incentive increment for acquiring M.Phil., degree vide G.O.Ms.No.18, School Education (E2) Department dated 18.01.2013, would be effective from the date of the said Government Order ie., 18.01.2013 or from the date following the last date of examination of the degree.

3.The petitioner has already received the incentive increment for acquiring M.Phil degree with effect from 03.10.2007, when the petitioner was issued with the appointment order. However, according to the respondents as seen from the impugned order, the petitioner ought not to have been paid the incentive increments for acquiring M.Phil degree from 03.10.2007, instead he ought to have been granted incentive increment only from 18.01.2013, which is the date of the Government order namely G.O.Ms.No.18 dated 18.01.2013. The very same issue was subject matter of consideration by this Court in the following decisions relied upon by the learned Counsel for the petitioner:

a) order dated 24.10.2024 passed by this Court in W.P.No.9027 of 2015;



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b) order dated 09.01.2023 passed by this Court in W.P. No.2912 of 2016.

4.In both the aforesaid decisions, this Court has held that subsequent to G.O.Ms.No.18 dated 18.01.2013, the impugned letter dated 17.07.2013, which according to the respondents has clarified G.O.Ms.No.18 dated 18.01.2013, cannot be acted upon, since the said letter dated 17.07.2013 which curtails the benefit of G.O.Ms.No. 18 dated 18.01.2013, will be contrary to the said G.O.

5.In both the aforesaid decisions, it has been held that G.O.Ms.No.18 dated 18.01.2013, has to be interpreted in line with Rule 26 of the Fundamental Rules of the Government of Tamil Nadu, which makes it clear that in cases where the passing of an examination or test confers on a government servant the title to any right, benefit or concession, such title should be deemed to have accrued on the day following the last day of the examination or test which he has passed. The relevant portion of Rule 26 of the Fundamental Rules of the Government of Tamil Nadu is reproduced hereunder:

“(2) In cases where the passing of an examination or test confers on a Government



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servant the title to any right, benefit or concession, such title should be deemed to have accrued on the day following the last day of the examination or test which he passed. In cases where the examination or test can be passed in installments, the title to the right, benefit or concession will be deemed to have accrued on the day following the last day of the examination in the subject or subjects in which he has passed."

6. Since the incentive increment has been paid to the petitioner only by adhering to G.O.Ms.No.18, dated 18.01.2013 as well as FR 26 ruling 2, the question of the respondents coming to the conclusion that the incentive increment ought to have been paid to the petitioner only from the date of G.O.Ms.No.18, is incorrect. Only as per the fundamental rules, ie., FR 26 (2), the petitioner had received the incentive increment for acquiring M.Phil degree from 03.10.2007. By total non-application of mind to FR 26 (2) as well as to the decisions of this Court referred to supra, the third respondent passed the impugned recovery order, which in the considered view of this Court is arbitrary and not in accordance with G.O.Ms.No.18, dated 18.01.2013 and FR 26(2). Hence, the impugned order dated 09.11.2021 passed by the third respondent has to be quashed and



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the Writ Petition has to be allowed.

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7. Accordingly, the impugned order dated 09.11.2021, passed by the third respondent is hereby quashed and this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

12.11.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes/No
MR



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ABDUL QUDDHOSE., J.

MR

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