

W.P(MD)No.22704 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED: 21.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD). No.22704 of 2018 and
WMP(MD) Nos.21662 & 20596 of 2018

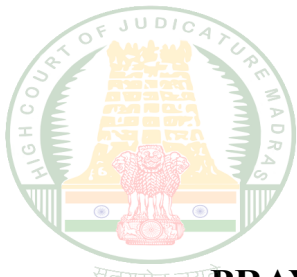
S.Thaha Mohamed

... Petitioner

Vs

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Secretariat, Chennai.
- 2.The Director of Elementary Education,
O/o the Director of Elementary Education,
College Road,
Chennai-6.
- 3.The District Educational Officer,
O/o. the District Educational Office,
Ramanathapuram,
Ramanathapuram District.
- 4.The Block Educational Officer,
O/o. the Block Educational Office,
Thiruvadanai,
Ramanathapuram District.

...Respondents



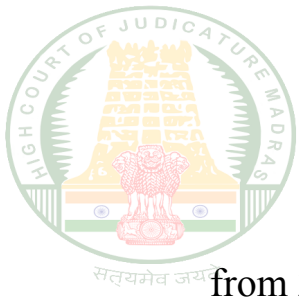
W.P(MD)No.22704 of 2018

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order issued by the fourth respondent in his impugned proceedings in Na.Ka.No.941 / A1 / 2017, dated 11/10/2018 and quash the same as illegal.

For Petitioner : Mr.Mohammed Imran for
M/s.Ajmal Associates
For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

ORDER

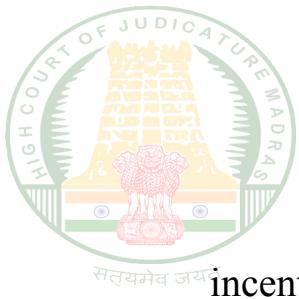
The petitioner was originally appointed as BT Assistant(English) on 15.09.2010 and posted at Panchayat Union Middle School at Kottaipattinam, Manamelkudi Union, Pudukottai District. Thereafter, he was promoted as Headmaster on 09.06.2000 and transferred to Panchayat Union Middle School, Muhilthaham, Thiruvadanai Union, Ramanathapuram District on 22.09.2011. The petitioner has obtained higher qualification of M.Com., B.A., B.Ed in the year 2010 and made a request for incentive agreement and he was provided with an incentive increment on 10.04.2012, with effect



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from 2010. However, on audit objection, a recovery proceedings was initiated by the Assistant Elementary Educational Officer, Thiruvadanai, vide proceedings in Na.Ka.No.941/A1/2017, dated 11.12.2017 that the petitioner was wrongly provided with incentive increment for possessing higher qualification in Commerce (M.Com). The petitioner, being a teacher of English subject, the M.Com., degree obtained by him would not serve any purpose to his students. Challenging the same, the petitioner has filed a writ petition in WP(MD) No.23872 of 2017 on the ground that the fourth respondent has passed an order of recovery, without providing an opportunity to him. On this limited ground that an opportunity was not provided to the petitioner, before passing an order of recovery, this Court has set aside the order, dated 11.12.2017 and remanded the matter for fresh consideration. Thereafter, the petitioner was provided with an opportunity and the case of the petitioner was considered and an order of recovery in detail in Na.Ka.No. 941/A1/2017, dated 11.10.2018 has been passed by the Block Educational Officer, Thiruvadanai, Ramanathapuram that the

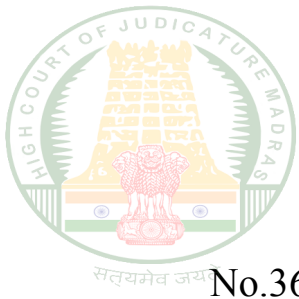


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incentive increment provided to the petitioner for his higher qualification of M.Com., was irrelevant to the course, for which, he is taking classes. The above order of recovery is under challenge in this writ petition.

2.The learned counsel appearing for the petitioner submits that the incentive increment has been provided to the petitioner, based on G.O.(Ms) No.324, dated 25.11.1995. He further submits that the Government has given instructions that incentive increments can be provided for the subjects in the higher secondary syllabus. Therefore, according to the learned Counsel, Commerce is a higher secondary subject. Therefore, there is no error in granting the incentive increment to the petitioner, for having completed M.Com., degree by him. He further submits that the teachers, who have completed M.Com., degree were provided with incentive increment and this petitioner alone has been singled out and action has been taken for recovering the incentive increment. The learned counsel has also relied on the order passed by this Court in WP(MD)

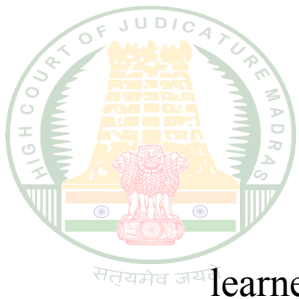


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No.3697 of 2018, dated 25.01.2022 and submits that M.Com., qualification was considered for incentive increment.

3.The learned Additional Government Pleader appearing for the respondents submits that this petitioner was appointed as BT Assistant (English). He was working in the middle school and the higher qualification acquired by the petitioner in Commerce (M.Com.,) is irrelevant to the subject in which, he is taking classes. However, the incentive increment has been wrongly granted to the petitioner and it has been subsequently corrected during audit inspection in the year 2017. The learned Additional Government Pleader has relied on the Government Order in G.O.Ms.No.134, School Education (G2) Department, dated 15.06.2007 and submits that additional qualification acquired in the subjects such as, Commerce and Economics are not the required qualification for incentive increment for BT Assistants(English) and that has been clarified by the Directorate of Elementary Education, vide his proceedings in Na.Ka.No.017731/E1/2015, dated 24.08.2016. The



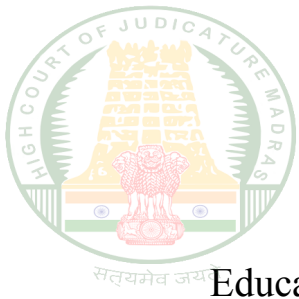
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learned Additional Government Pleader has also relied on the order passed by this Court in a batch of writ petitions in WP(MD) No. 6689 of 2020 etc., dated 13.03.2023.

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

5.Admittedly, this petitioner was appointed as a BT Assistant(English) in a middle school. In middle Schools, there is no subject of Commerce or Economics. The petitioner, who was working as the BT Assistant (English), instead of acquiring higher qualification in English, in which he is taking classes, for the reasons best known to him, has acquired a higher qualification in Commerce, with which, he has made a representation to the respondents for incentive increment. The incentive increment was also provided to him in a mechanical manner and the same was detected only in the year 2017, while conducting an audit. Therefore, an order of recovery was passed by the Assistant Elementary



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Educational officer, without providing an opportunity. Therefore, this Court, by its order, dated 30.01.2018, directed the respondent Department to provide an opportunity to this petitioner and to pass further orders. Therefore, the Block Educational Officer has provided sufficient opportunity to the petitioner and considered the case of the petitioner and also passed an order that the petitioner is not entitled for an incentive increment on the ground that he was working as BT Assistant (English) in a Middle School and the higher qualification of Economics or Commerce acquired by the petitioner, in no way will be useful for the students.

6.As a policy decision, the Government has decided to provide incentive increments to the teachers, who have acquired higher qualification, vide G.O.(Ms) No.42, School Education Department, dated 10.01.1969. According to Black's Law Dictionary, incentive pay plan is defined as a compensation plan, in which increased productivity is rewarded with higher pay. It is a concession granted by the Government to the Teachers to motivate

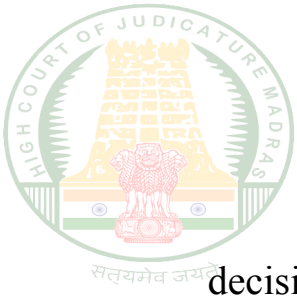


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them. Thus, such concession can never be claimed as an absolute right and it is to be granted strictly in accordance with the terms and conditions stipulated in the policy. Wrong sanctioning of incentive increment to any Teacher cannot be treated as precedent, nor it can be sustained.

7.The very basis for grant of incentive increment is to encourage the Teachers to acquire additional qualification, which would be useful for the students and for the improvement of the education system. Here, in the present case, the petitioner, who was working as a BT Assistant (English), instead of enriching his knowledge in English has chosen to acquire higher qualification in Commerce (M.Com.), without considering the benefit, which the student is going to get it from the Commerce degree obtained by him. The incentive increment was also provided to him in a mechanical manner. The Government has now realized that the incentive increments provided to the Teachers have not effected any results in the performance of the Students and has taken a policy

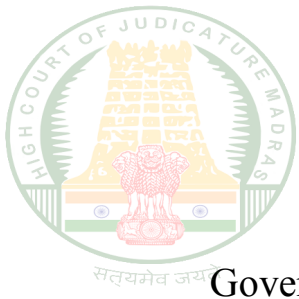


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decision not to provide any incentive increments, based on the additional qualifications acquired by the Teachers, vide G.O.Ms.No. 116, Personnel and Administrative Reforms (FRIV) Department, dated 15.10.2020. However, the incentive increment, which was provided earlier has not been revised. This would certainly amounts to discrimination among the teachers, who are working in the same cadre.

8.This Court is of the view that the Government has to revise the incentive increments provided to the teachers, who have not delivered anything good to the institution with their additional qualification. In this case, the petitioner has took a specific stand that several teachers of similarly placed have been provided with incentive increment for having acquired M.Com., degree. This Court, by its earlier order, dated 13.03.2023 has directed the Government to verify and to inform this Court whether any such similarly placed persons have been provided with incentive increment for having acquired M.Com., qualification. However, the



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Government is not prepared to furnish the details and sought time that they are not having the details as on date. All the Departments have been computerized long back and therefore, the stand taken by the respondents that they are not having the details with regard to the incentive increments provided to the Teachers for those, who have acquired M.Com., qualification cannot be accepted. The incentive increments, if any, provided wrongly is also out of the taxpayers money. The Government officials must realize their responsibility, while spending each and every penny of taxpayers money. The best form of courage is to accept the mistake and to correct it. It appears that the Government is not inclined to accept the mistake in sanctioning incentive increments to the irrelevant course acquired by some teachers. If any disparity, in providing incentive increment to ineligible teachers, would definitely demoralize the teachers, who are having similar qualification.

9.In view of the foregoing reasons and discussions, this writ petition is dismissed. Hope the Government shall find out the



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ineligible teachers, who are receiving incentive increments for their higher qualification without any relevancy and to take appropriate action to recover the same, as it is a loss to the public exchequer. No costs. Consequently, connected Miscellaneous Petitions are closed.

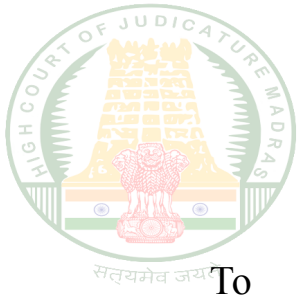
List this writ petition on **21.03.2025**, for reporting compliance by the Government.

21.01.2025

NCC:Yes/No

Index:Yes

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To
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School Education Department,
Secretariat, Chennai.
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O/o the Director of Elementary Education,
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B.PUGALENDHI, J.

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