



**W.P(MD) No.18917 of 2016**

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.01.2025

CORAM

**THE HON'BLE MS.JUSTICE R. POORNIMA**

**W.P(MD) No.18917 of 2016**

**and**

**W.M.P(MD)No.13666 of 2016**

Raja Mohamed

... Petitioner

Vs

1.The Director of School Education,  
DPI Campus,  
College Road,  
Chennai-6.

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



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

4.The District Educational Officer,  
O/o. the District Educational Officer,  
Uthamapalayam,  
Theni District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in O.Mu.No.8005/A4/2015 dated 20.07.2016 on the file of the respondent No.4 and quash the respondent No.4 to approve the refixation of salary of the petitioner by granting incentive increment to the petitioner for M.C.A., degree with effect from 15.09.2011 with all consequential benefits.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.V.Omprakash  
Government Advocate



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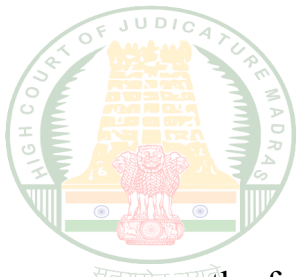
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**ORDER**

This Writ Petition is filed by the petitioner with a prayer to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in O.Mu.No.8005/ A4/2015 dated 20.07.2016 on the file of the respondent No.4 and quash the same as illegal and consequently direct the 4<sup>th</sup> respondent to approve the refixation of salary of the petitioner by granting incentive increment to the petitioner for M.C.A., degree with effect from 15.09.2011 with all consequential benefits.

2. The brief case of the writ petitioner are as follows:

(a) The petitioner completed B.Sc Physics degree in the year 2001 and later completed M.C.A degree in the year 2004. He had also completed B.Ed degree in the year 2010. Subsequently, he was appointed in the post of B.T. Assistant in Science at Pachaiyappa High School, Uppukkottai, Theni District on 15.09.2011 and working in the above said school for the past five years without any blemish in service. The said school is a Government aided school which comes under the control of



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the fourth respondent.

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(b) The Government Order regarding incentive increment in G.O.(Ms)No.324, Education, Science and Technology Department (E2) dated 25.04.1995 provides as follows:

“5.The Government accordingly direct that i. The conditions (i) and (ii) in para 3 of G.O.(Ms)No.624 Education dated 13.07.1992 be deleted. (ii) for the sanction of incentive increment, subject in the higher secondary syllabus shall be the relevant subject. (iii) in respect of the teachers in physical education, they are eligible for incentive for air qualification only in physical education. (iv) these orders will take retrospective effect from 17.9.1986 to cover fast cases. (v) The teachers who have acquired higher qualification in subject, other than higher secondary syllabus shall not be eligible for any incentive increment.”

(c) The petitioner further stated that based on the above Government Order he is entitled for incentive increment for possessing M.C.A., degree as it is relevant subject and Computer Science is in the



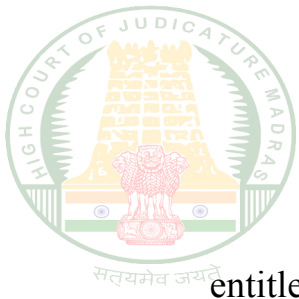
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Higher Secondary syllabus. He had submitted a representation to the Secretary of Pachaiyappa High School, Uppukkottai for granting incentive increments based on his representation, the Secretary of the School refixed his salary by way of granting incentive increment for M.C.A., degree and forwarded the said proposal to the respondent No.4 on 23.12.2015.

(d) The petitioner further stated that without considering the proposal for approval of granting incentive increment, respondent No.4 rejected by way of impugned order dated 19.07.2016, erroneously without any application of mind has referred to the order, G.O.(Ms)No. 240 School Education Department, dated 18.08.2010, which was exclusively issued for the Vocational Instructors and has failed to note that he has not claiming incentive increment based on the Government Order.

(e) The petitioner further stated that in the G.O.(Ms)No.324 dated 25.4.1995, in which it has been categorically stated that he is



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entitled for incentive increment for higher qualification in a relevant subject in higher secondary syllabus. The respondent No.4 ought to have granted approval to the fixation of pay scale by way of granting incentive increment as Computer Science which is a subject in Higher Secondary syllabus.

(f) The petitioner further stated that a person named Mr.G.Suresh Kumar has sought for information regarding whether G.O.(Ms).No.324 dated 25.4.1995 is in existence and whether the incentive increment as contemplated in the said Government Order are granted to the teachers under RTI on 16.07.2004. For the query, the Public Information Officer of the first respondent Department vide proceedings dated 03.09.2014 replied that the above said Government Order is still in existence and the Government Order are being granted. But the respondent No.4 completely ignored the above said Government Order and has issued the impugned order, rejecting his claim for which he was put to irreparable loss and hardship. Hence, the present writ petition has been filed.



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3. The contention of the fourth respondent in their counter are as follows:

(a) The petitioner is working as a B.T assistant in the Pachiappa High School, Uppukkottai. His educational qualification are B.Sc in Physics and B.Ed., as he is working as B.Ed. Assistant, he cannot claim incentive for M.C.A, which is available only to the Computer Teachers, as per G.O.(Ms)No.240 School Education (VE) Department dated 18.08.2010.

(b) The respondent further stated that the petitioner is mainly depending upon G.O.(Ms)No.324, Education and Technology Department (E2) dated 25.04.1996. The Government Order clearly specifies that for the sanction of incentive increments the subjects in Higher Secondary syllabus shall be the relevant subject. However, the same order restricts for the Physical Education Teachers that they will be eligible for incentive increments for higher education qualification in Physical Education. In the same way, the Government has restricted that the incentive increment for M.C.A. degree will be given only to



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Computer Instructors, in G.O.(Ms)No.240 School Education (VE) Department, dated 18.08.2010. Hence, the petitioner cannot claim incentive for M.C.A. degree which is meant for the Computer Instructors like the higher qualification in Physical Education is meant for the Physical Education Teachers.

(c) The respondent further stated that the petitioner is under wrong interpretation that he will be eligible for incentive increment for any higher qualification. Like the restriction made on the Physical Education, the Computer Instructors alone will be eligible for incentive increment for higher qualification in Computer subject. The following qualification have been prescribed as higher qualification in computer science subject :

For First incentive

M.E.,

P.G. degree in related Computer science subject from a recognized University in the State or equivalent.

M.Phil degree in related Computer science subject from



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a recognized University in the state or equivalent.

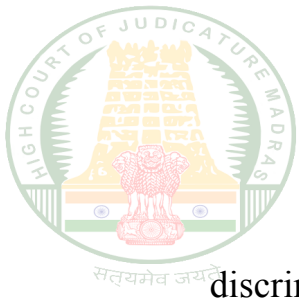
For Second incentive

M.Phil or M.Ed., or P.Hd.,

The MCA has been identified as the basic qualification and not a higher qualification even to the Computer Instructors.

The petitioner is ignorant of rules and misconstrued the contents.

(d) The respondent further stated that the petitioner has suppressed the fact that the degree of MCA has been identified as basic degree for appointment of Computer Instructor as per G.O.(Ms)No.240 dated 18.08.2010, and misleading this Court by his wrong pleadings, a particular benefit should be given is entirely coming within the policy realm of the State Government and the petitioner merely because he has acquired higher qualification that too in different subject, without there being any corresponding obligation on the part of the State to reward the same, cannot file a writ petition seeking for such rewards. It is not the case that the existing terms and conditions of service there is any

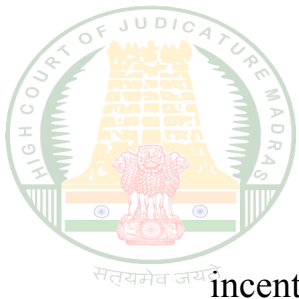


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discrimination shown by the government. Whether such an higher education qualification acquired is relevant for teaching work or not, and from which period such increment should be given and in what proportionate it should be given is for the State Government to decide. The petitioner has no vested right to claim advance increments merely because he had acquired higher qualification. The grant of increments was with a view to encourage the teachers get higher qualification, since all the students of School will be benefited for higher qualification so that such higher qualification and the knowledge acquired for it would be of assistance to their teaching standards. Therefore, the scheme of grant of incentive increment is entirely an invention by the State to reward the teachers. In the matter of such a rewards, it is entirely for the state to frame policy. Accordingly, the Government has clearly stated its view in G.O.(Ms)No. 240 dated 18.08.2010, the petitioner cannot question the policy matter of the Government.

(e) It is further submitted by the respondents that where the M.C.A degree has not been identified as eligible qualification for



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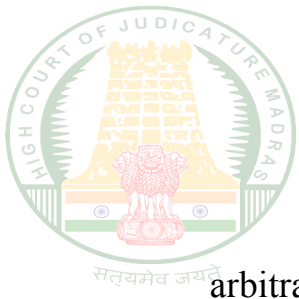
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incentive increments as such the petitioner is not entitled to claim incentive agreement for acquisition of M.C.A degree. Therefore, the writ petition is liable to be dismissed.

4. The rejoinder affidavit filed by the petitioner are as follows:

(i) The petitioner states that the Government Order in G.O.(Ms)No. 240 dated 18.08.2010 deals only with the incentive increments granted to the Vocational Instructors and the same is not applicable to the B.T. Assistants. As far as the B.T Assistants are concerned, the incentive increment is being sanctioned by virtue of G.O.(Ms)No.324 dated 25.04.1995, which is still in existence.

(ii) The petitioner is entitled for incentive increment for M.C.A degree, which is part of Higher Secondary course. The respondent attempts to draw a logical corollary that in view of G.O.(Ms)No.240, dated 18.08.2010, only Computer Instructors are eligible for incentive for M.C.A degree. The said inference is highly



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arbitrary and against the spirit of Government Order in G.O.(Ms) No.324 dated 25.04.1996.

(iii) That the respondent No.4 has failed to see that for none of the B.T. Assistant posts, there is specification of subjects in respect of higher qualification for which incentive increments is granted. For instance, B.T. Assistant in Science, the Government Order does not specify the subjects of PG degrees for the purpose of granting incentive increments. Therefore, any post graduate degree in the subjects which is included in the syllabus of Higher Secondary course are considered for grant of incentive increment. Hence, he prayed to allow the writ petition.

5. Heard the learned counsel on either side and perused the materials available on record.

6. The petitioner claim incentive increment based on G.O. (Ms)No.324 Education, Science and Technology Department (E2.) dated 25.04.1995, in which paragraph Nos.2 to 4 of the said Government Order



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reads as follows :

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*“2. The Government in the G.O. sixth read above have issued order based on the recommendations of the Fourth Pay Commission that the higher qualification for the purpose of grant of Incentives should be with reference to the area of Specialisation instead of in any subject. As the above orders let to a lot of representations by the various Teachers' Associations, Government issued the orders in G.O.Ms.No.624 Education, dated 13.7.92, introducing the following four conditions for grant of incentives:*

*(i) That the grant of incentive to a teacher for acquiring higher qualification in a particular subject should be on the condition that the teacher should be required to teach the additional subject based upon needs. In addition to his basic subject:*

*(ii) The Director of School Education should judge the relevance of the subjects for allowing the grant of incentives to the past cases i.e.. from 17.9.86 to 1991-92 and such grant will have only prospective effect.*

*(iii) From 1992-93, sanction of*



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*incentive increment should be with reference to developing areas of study and subjects where teachers shortage has been identified. The special subjects for which higher qualification would become eligible for Incentive shall be Identified by the Director of School Education.*

*(iv) In future Physical Education Teachers' incentive increments will be only in the area of Physical Education and the Director of School education, will identify the relevant courses.*

*3. It has been brought to the notice of Government by Director of School Education and also the Teachers' Associations that the conditions stipulated in the G.O. seventh read above are not capable of being implemented easily and that most of the B.T. Assistants, Secondary Grade Teachers are not allowed the incentive increments because of the conditions.*

*4. The Government have examined the matter carefully and decided to stipulate the Higher Secondary Syllabus subjects as "relevant subjects for the purpose of sanctioning incentive increments in*



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*respect of Physical Education Teachers incentive increments will continue to be only for higher qualification in the area of Physical Education.”*

7. In paragraph No.5, the Government accordingly directed  
that

*i The conditions (i) to (ii) in para 3 of G.O.Ms. No.624, Education, dated 13.07.1992 be deleted.*

*ii. For the sanction of incentive increments the subjects in the Higher Secondary Syllabus shall be the relevant subject.*

*iii. In respect of teachers in Physical Education they are eligible for the incentive for higher qualification only in Physical Education.*

*iv. These orders will be retrospective effect from 17.09.1986 to cover past cases.*

*v. The teachers who have acquired higher qualification in subjects other than Higher Secondary syllabus shall not be eligible for any incentive increment.*

8. The writ petitioner, in addition to B.Sc., Physics degree, completed his M.C.A., degree in 2004 and also completed B.Ed., in the



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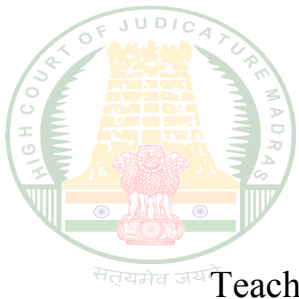
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year 2010. He was appointed in the post of B.T. Assistant in science at Pachaiyappa High school, Uppukkottai on 15.09.2011.

9. He made a representation to the Secretary of the School for incentive increment based on G.O.Ms.No.324, Education, Science and Technology Department, dated 25.04.1995, for his M.C.A., degree. As per the petitioner, Computer Science is also a syllabus in the Higher Secondary Education and is entitled for incentive increment.

10. The Secretary of the School refixed his incentive and forwarded the proposal to the fourth respondent on 23.12.2015. However, the fourth respondent without considering the proposal for approval of granting incentive increment, rejected the same by way of issuing the impugned order, dated 19.07.2016.

11. In the impugned order, dated 19.07.2016, it was stated that as per G.O.(Ms)No.42 Education dated 10.1.1969 and G.O.(Ms)No. 1024 dated 09.12.1993 and G.O.(Ms) No.18 dated 18.01.2013, that the



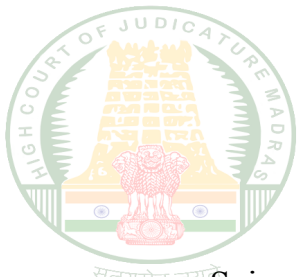
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Teachers acquired M.A., M.S.c., and M.Phil., degree alone are eligible for incentive increments.

12. The fourth respondent further relied upon G.O.(Ms) No. 240 dated 18.08.2010 and rejected the claim by stating that the petitioner is working as a B.T., Assistant and he is not entitled to claim incentive increments for M.C.A., degree, which is available only to Computer Teacher.

13. The rejection order issued by the fourth respondent on the basis of G.O.(Ms)No.240 dated 18.08.2010 is not proper, as the same is issued for the vocational teachers not for the other teachers. The petitioner is not a Vocational Instructor, but has been appointed as B.T., Assistant on 15.09.2009. G.O.(Ms) No.324 Education, Science and Technology Department, dated 25.04.1995, which is the modified Government Order, in which, it was clearly stated that for the sanction of incentive increment, the subjects in the Higher Secondary syllabus shall be the relevant subject. The fourth respondent not denied that Computer



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Science is the Higher Secondary syllabus.  
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14. In G.O.(Ms) No.324 Education, Science and Technology Department, dated 25.04.1995, in paragraph No.2, it was stated that in the G.O. sixth read above (G.O.(Ms).No.907 Personnel and Administrative Reforms, dated 17.09.1986), issued based on the recommendations of the Fourth Pay Commission that the higher qualification for the purpose of grant of incentives should be with reference to the area of specialization instead of in any subject. As the above orders led to a lot of representations by the various Teachers' Associations, Government issued the orders in G.O.(Ms).No.624 Education, dated 13.07.1992, introducing the following four conditions for grant of incentives.

*(i) That the grant of incentive to a teacher for acquiring higher qualification in a particular subject should be on the condition that the teacher should be required to teach the additional subject based upon needs. In addition to his basic subject:*

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*grant of incentives to the past cases i.e.. from 17.9.86 to 1991-92 and such grant will have only prospective effect.*

*(iii) From 1992-93, sanction of incentive increment should be with reference to developing areas of study and subjects where teachers shortage has been identified. The special subjects for which higher qualification would become eligible for Incentive shall be Identified by the Director of School Education.*

*(iv) In future Physical Education Teachers' incentive increments will be only in the area of Physical Education and the Director of School education, will identify the relevant courses.”*

15. Since the conditions stipulated in the above, Government Order could not be implemented easily B.T. Assistant, Secondary Grade Teachers are not allowed the incentive increments because of the conditions. The Government issued the present Government Order in G.O.(Ms)No.323, in which conditions (i) to (ii) in paragraph No.3 of G.O.(Ms)No.624 be deleted and it was incorporated that the sanction of incentive increments, the subjects in the Higher



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Secondary syllabus shall be the relevant subject. It is stated by the respondents that the Teachers who had completed M.A., M.Sc., and M.Phil., graduate alone are eligible and for the incentive increments, rather, the conditions stipulated in G.O.(Ms)No.324, it is nowhere stated that the Teachers who had completed M.A., M.Sc., and M.Phil graduate alone entitled for incentive increment, but it clearly stipulates that the condition for sanction of increment is that the Teacher should obtain higher degree in the Higher Secondary syllabus. The petitioner obtained a degree in Higher Secondary subject viz., M.C.A., and completed the conditions stipulated in the Government Order. Therefore, he is entitled for incentive increments. The school authorities also accepted his request and recommended for incentive increment. The order rejected based on the G.O.(Ms).No.240 dated 18.08.2010 issued for the Vocational Instructors for Computer Science and not for the B.T. Assistant, and therefore, it is not applicable to the petitioner. Therefore, the reason stated in the impugned order for rejection of the recovery made by the petitioner is improper and the impugned order is liable to be set aside.



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16. Accordingly, the writ petition is allowed. The impugned order passed by the fourth respondent dated 20.07.2016 is quashed. The fourth respondent is directed to approve the refixation of salary of the petitioner by granting incentive increment to the petitioner for M.C.A., degree with effect from 15.09.2011 with all consequential benefits. The fourth respondent is also directed to disburse the benefits to the petitioner within a period of three months from the date of receipt of copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

**21.01.2025**

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

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**R.POORNIMA, J.**

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