

WP(MD). No.23078 of 2019

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.23078 of 2019
and
WMP(MD)Nos.19823, 19824 of 2019

J.Loish J.Grit

... Petitioner

v

1. The Director of School Education,
College Road,
Chennai – 600 006.
- 2.The Chief Educational Officer,
Tirunelveli.
3. The District Educational Officer,
Valliyoor,
Tirunelveli District.
4. The Secretary,
Baliah Marthandam Higher Secondary School,
Avaraikulam – 627 133,
Tirunelveli 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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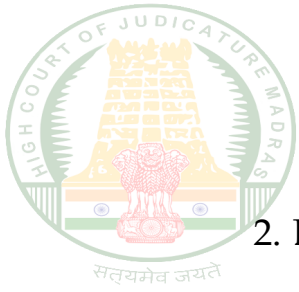
the records relating to the orders passed by the third respondent in
O.MuMu.No.1806/Aa3/19 dated 05.09.2019, quash the same and
consequently, directing the respondents 2 & 3 to allow incentive to the
petitioner with effect from 27.11.2015 since the petitioner acquired the
higher qualification of M.Phil (Tamil) and as per the representation
made by the fourth respondent dated 30.07.2019.

For Petitioner : Mr.K.K.Kannan

For Respondents : Mr.K.Balasubramani,
Special Government Pleader
for R.1 to R.3

ORDER

The petitioner is working as a Tamil Teacher in the fourth respondent School. During his service, he studied and passed M.Phil degree during the year 2015. Therefore, he applied for incentive increment. But, the third respondent rejected the same by his proceedings dated 05.09.2019. Challenging the same, the petitioner has filed this writ petition.



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2. Learned Counsel appearing for the petitioner submitted that the Government is providing incentive increment for acquiring higher education. The petitioner has obtained the higher qualification of M.Phil and has applied for incentive increments. However, it was rejected on the ground that prior permission was not obtained from the Department.

3. He further submitted that the petitioner is working in the fourth respondent School, which is a Private Aided School. The Secretary of the School is the authority for granting permission, who has also granted the permission. Therefore, the petitioner is entitled for incentive increment on par with others. He further submitted that the similarly placed persons, who have acquired higher qualifications, have been provided incentive increments. He 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.

4. Learned Special Government Pleader for the respondents 1 to 3 submitted that the Government, vide G.O.Ms.No.37, Personnel and Administrative Reforms Department, dated 10.03.2020, has issued a



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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 from the Department for pursuing his higher studies and therefore, he is not entitled for incentive increments. He 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.

5. This Court considered the rival submissions made on either side and also perused the materials placed on record.

6. Admittedly, the petitioner has pursued the higher education without obtaining prior permission from the Department.

7. For acquiring higher education by the Government Servant, necessary prior 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



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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 G.O.Ms.No.328, dated 09.04.1983, a proposal was made to the Government in the year 1989. Thereafter, 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 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 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



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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. 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 now 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 educational qualifications, instead of providing increments. 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

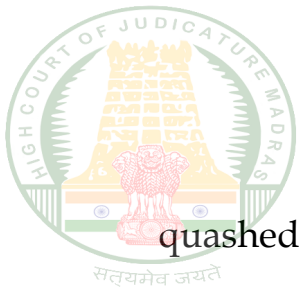


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incentive increments, which were already provided to those, who have acquired higher education.

9. The petitioner has acquired the higher education after entering into the service 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) Department, dated 29.07.1989 and G.O.(Ms)No.101, School Education (Budget-1) Department, dated 18.05.2018.

10. The petitioner's Counsel took a plea that the Government Order in G.O.Ms.No.944, Education (D2) Department, dated 29.07.1989, was



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quashed by this Court in WP(MD)N.14085 of 2015, dated 26.11.2020.

WEB COPY Learned Special Government Pleader was quick to respond that as against this order of the Writ Court, the Department has preferred an appeal in WA(MD)No.570 of 2021 and the Division Bench of this Court has granted an order of interim stay, on 17.03.2021.

11. Therefore, this Court is not inclined to accept the case of the petitioner. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
gk

08.01.2025

To

1. The Director of School Education,
College Road,
Chennai – 600 006.
2. The Chief Educational Officer,
Tirunelveli.
3. The District Educational Officer,
Valliyoar,
Tirunelveli District.



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B.PUGALENDHI, J.

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