

W.A.(MD)No.1063 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 25.04.2025

PRONOUNED ON : 03.06.2025

CORAM:

**THE HONOURABLE MRS.JUSTICE J. NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.A(MD)No.1063 of 2025
and
C.M.P.(MD)No.6755 of 2025**

1.The Director of Elementary Education,
DPI Campus, Chennai-6.

2.The District Educational Officer, (Elementary),
Kovilpatti, Thoothukudi District.

3.The Block Educational Officer,
Kovilpatti, Thoothukudi District.

... Appellants

Vs.

1.J.Sundersingh Vinsraj

2.The Correspondent,
TNDTA Primary School,
Keela Iral, Ettayapuram Taluk,
Thoothukudi District.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.15225 of 2024, dated 10.07.2024.



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For Appellants :Mr.J.Ashok
Additional Government Pleader
For R1 :Mr.T.Aswin Rajasimman

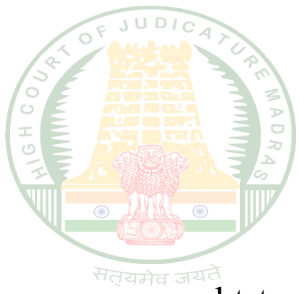
JUDGMENT

(Judgment of the Court was delivered by **S.SRIMATHY, J.**)

The present writ appeal is filed by the State against the order dated 10.07.2024 passed in W.P.(MD)No.15225 of 2024.

2. The writ petition was filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned orders, dated 29.04.2024 and consequential order dated 19.06.2024 of the third respondent and to direction to the respondents to restore the incentive increment granted to the petitioner for acquiring higher qualification.

3. The brief facts are that the petitioner had completed M.A., degree in the year 1999 and he had also completed B.A., degree in the year 2014 and B.Ed., in the year 2018. The government is granting incentive increments for acquiring higher qualification. After completing B.Ed. in the year 2018, the petitioner had



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sought to grant incentive increment for M.A. acquired in the year 1999 through open university and for B.Ed. acquired in the year 2018. The same was granted but there is an audit objection for drawing the incentive increments. Hence the granting of incentive increments was withdrawn and also directed the petitioner to remit the excess amount drawn as incentive increments. Challenging the same the Writ Petition was filed.

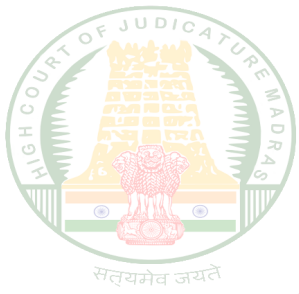
4. After hearing the rival submissions, the Writ Court has held that Subsequently in the year 2013, a government order has been issued in G.O.Ms.No.118, dated 10.07.2013, through which, the earlier permission granted for sanctioning incentive increment for persons, who had directly acquired M.A., through Open University, degree has been cancelled. Even in the impugned order in the writ petition, it is stated that the petitioner had acquired M.A., degree during 1999, which is much prior to the issuance of G.O.Ms.No.118, dated 10.07.2013. In other words, the petitioner had acquired his M.A., degree, when the earlier Government order in G.O.Ms.No.307, dated 15.12.2000, was in force. The said Government order was passed entitling the persons, who had acquired M.A., degree, through open university, for incentive increment. For both M.A., degree, which the petitioner acquired in the year 1999 and B.Ed., which he



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acquired in the year 2018, incentive increments have been granted in the year 2018, during which time, G.O.Ms.No.118, dated 10.07.2013, was not in force. So far as the petitioner's qualification in B.Ed., is concerned, the petitioner had acquired B.Ed., degree only after finishing B.Lit., in the year 2014, i.e., in the year 2018. When the impugned order in the writ petition has been passed cancelling the incentive increment in view of the petitioner's acquisition of M.A., degree in open university, the third respondent had omitted to notice that the petitioner had completed M.A., degree much prior to issuance of G.O.Ms.No.118, dated 10.07.2013 and the petitioner does not come under the purview of G.O.Ms.No. 118, dated 10.07.2013. Since the order has been passed by overlooking the fact that G.O.Ms.No.118, dated 10.07.2013, was not in force during the time when the petitioner had acquired M.A., degree, it is liable to be interfered with. Even when there is no quarrel with regard to B.Ed., degree of the petitioner, that was also dealt with in the impugned order in the writ petition unnecessarily. Therefore, the writ court set aside the impugned order, dated 29.04.2024, cancelling the incentive increment and the consequential order of recovery issued on 19.06.2024 and allowed the writ petition was allowed and the respondents were directed to restore the incentive increments without any deduction. Aggrieved over the same, the present writ appeal is preferred by the State.



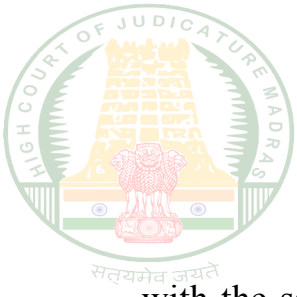
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5. Heard Mr.J.Ashok, learned Additional Government Pleader appearing for the appellants and Mr.T.Aswin Rajasimman, learned Counsel appearing for the 1st respondent and perused the records.

6. The primary contention of the appellant is that the writ petitioner had acquired M.A. degree in the year 1999 through open university without completing any Bachelor Degree, hence the petitioner is not entitled to incentive increment as per G.O.Ms.No.118, dated 10.07.2013 since the said G.O. has declared that open university degree without passing the bachelor degree is not valid degree. But the contention of the writ petitioner is that the open university degree was acceptable under G.O.Ms.No.307, dated 15.12.2000 which entitles the petitioner for incentive increment.

7. After hearing the rival submissions, this Court has given its anxious consideration. It is seen that the petitioner was granted incentive increment for M.A. degree from 2018 onwards even though the petitioner had acquired the M.A. degree in the year 1999. It is pertinent to mention that the petitioner had acquired B.Ed. degree in the year 2018, hence along with the B.Ed. degree the petitioner had sought incentive increment for M.A. and the same was drawn along



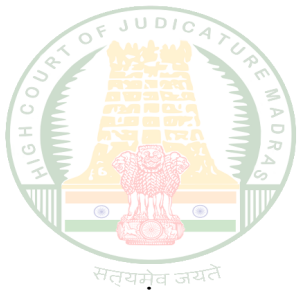
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with the salary. Now the question arises having not claimed all these years from 1999 onwards, whether the petitioner is entitled to incentive increment for open university M.A. degree when the intervening G.O.Ms.No.118, dated 10.07.2013 has come into effect. This Court is of the considered opinion due to intervening G.O.Ms.No.118, dated 10.07.2013 the petitioner is not entitled to incentive increment for M.A. degree. If the petitioner was paid incentive increment in the year 2000 itself based on G.O.Ms.No.307, dated 15.12.2000, the same cannot be disturbed. But having not paid all these years, then by intervening G.O.Ms.No. 118, dated 10.07.2013, then the payment made from 2018 onwards is illegal and the petitioner is not entitled to.

8. The appellant has not agitated payment of incentive increment for B.Ed. degree therefore the appellants are directed to pay the same to the petitioner.

9. It is pertinent to mention herein that the incentive increment is not a small amount. It increases with time scale pay. In other words, the incentive increment is being paid as time scale of pay. The individual would put effort once to acquire higher degree, but would be drawing incentive increment which

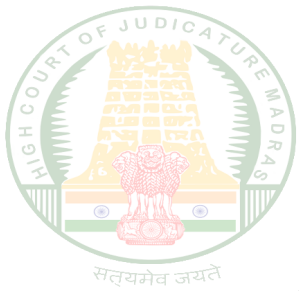


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increases along with time scale pay. Even in the petitioner case, in May 2018 the excess amount is Rs.1258. But from June 2018 a steep increase to Rs.7800/- and the said excess amount of Rs.7800/- was drawn for the month from June 2018 till March 2019. Likewise, from April 2019 to March 2020 Rs.8300/- excess per month, from April 2020 to March 2021 is Rs.8300/- excess per month, from April 2021 to October 2021 Rs.8500/- excess per month. Therefore, if incentive increment is allowed, the same would have financial implications to government.

10. The next issue to be considered is whether the appellants can recover the excess amount. As per the judgment of the Hon'ble Supreme Court rendered in State of Punjab v. Rafi Masiq reported in (2015) 4 SCC 334 the recovery from retired persons, persons belonging to Class C and D is restrained. It is seen that the petitioner is still in service and the petitioner is serving as Headmaster and comes under Class B. The petitioner has expressed his difficulty in repaying, if collected the entire salary would be deducted. Therefore, this Court is directing the appellants to recovery 50% of the excess amount alone. However, the appellants shall refix the salary since the petitioner is not entitled to incentive increment for M.A. degree.



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11. Based on the above discussions the following orders are passed:

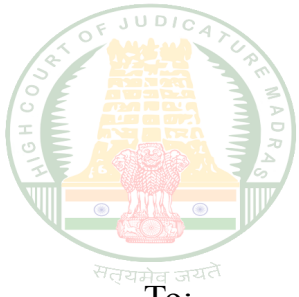
- i. The writ petitioner is entitled to incentive increment for B.A. degree and the same shall be continued paying.
- ii. The writ petitioner is not entitled to incentive increment for M.A. degree hence the appellants shall refix the salary.
- iii. As far as recovery of excess payment of incentive increment for M.A. degree is concerned the appellants shall recovery 50% of the total amount alone.

12. With the above said observations and directions, the writ appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

[J.N.B., J.] [S.S.Y., J.]
03.06.2025

Index : Yes / No

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