



WEB COPY

WP No. 5877 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 20-02-2026**

CORAM

**THE HON'BLE MR JUSTICE M.DHANDAPANI**

**WP No. 5877 of 2026**

B.Mani

..Petitioner(s)

Vs

1. The Government of Tamil Nadu,  
Rep. by Secretary to Government  
School Education Department  
Fort St.George, Chennai-09.
2. The Director of School Education,  
College Road, Chennai-6.
3. The Financial Advisor and Principal Accounts  
Officer,  
School Education Department,  
Chennai-600 006.
4. The Chief Educational Officer,  
Ooty, Nilgiris District-643 006.
5. The Head Master,  
Government Higher Secondary School,  
Kil-Kotagiri,  
Nilgiris District-643 216.
6. The Assistant Controller of Examinations  
Vinayaka Missions University  
Salem.

..Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India,  
seeking issuance of writ of mandamus, to direct the respondents to refund the



with held incentive increment of Rs.3,88,589/-and continue to pay the incentive increment for the petitioner's M.Phil, Degree by re-fixing petitioner salary from 2017 onwards within the time limit stipulated by this Honble Court.

For Petitioner(s): Mr.R.Saravanan

For Respondent(s): Ms.Mythreye Chandru  
Special Government Pleader

### **ORDER**

This Writ Petition has been filed seeking issuance of writ of mandamus, to direct the respondents to refund the with held incentive increment of Rs.3,88,589/-and continue to pay the incentive increment for the petitioner's M.Phil, Degree by re-fixing petitioner salary from 2017 onwards.

2. With the consent of the learned counsel appearing on either side, this Writ Petition is taken up for disposal at the admission stage.

3. The learned counsel for the petitioner would submit that the petitioner appointed as P.G.Assistant in the year 1987 at SCM Higher Secondary School, Vadambacheri and relieved from service on 18.11.1999 thereafter, the petitioner was appointed as P.G.Assistant in the year 1999 at Government Higher Secondary School, Nanjanad and subsequently, he was transferred to the 5<sup>th</sup> respondent School on 03.07.2000. In the meanwhile, the petitioner was promoted as Head Master in the year 2017. In the year 2007-2008, the



petitioner completed M.Phil Degree in the 6<sup>th</sup> respondent University and certificate was issued on 20.09.2009. Thereafter, on the basis of the higher qualification, the petitioner availed incentive increment. However, the same was abruptly stopped stating that the M.Phil degree obtained through distance education in the 6<sup>th</sup> respondent University is not valid. At this juncture, the petitioner was compelled to give consent that the incentive increment to the tune of Rs.3,88,589/- shall be withheld from my salary in 20 equal instalments and the same was approved by the 4<sup>th</sup> respondent vide order dated 08.11.2017 at the time of retirement.

4. In a similar issue, a Division Bench of this Court in ***S.Sivan Vs. the Regional Accounts Office and others made in W.A.No.2328 of 2018 etc., batch dated 04.08.2023***, made it clear that for acquiring higher qualification of M.Phil., PG Degree through distance education mode is a permissible one and the same is relevant subject for PG Assistant. In order to avail the said benefit, this Writ Petition is filed with the above said prayer.

5. The learned Special Government Pleader appearing for the respondents did not dispute the fact with regard to the Division Bench judgment of this Court. She also referred an order of this Court made in W.P(MD).No.27596 of 2023 dated 21.11.2023, wherein, after following the Division Bench judgment referred supra, the learned single Judge held as follows:-



“2. According to the writ petitioner, he had joined M.Phil (Commerce) in the year 2007 in the sixth respondent University and he has successfully passed out in the year 2008. Based upon the higher qualification, incentive increment was granted. However, by way of an order, dated 13.09.2023, the incentive increments paid to the writ petitioner was withheld from the DCRG on the ground that the petitioner passed out M.Phil Degree from an un~recognized University. Hence, the present writ petition has been filed.

3. The petitioner had brought to the notice of the Court, a judgment of the Hon-ble Division Bench of this Court in a batch of writ appeals in **W.A.Nos.2328 of 2018 etc., (S.Sivan Vs. The Regional Accounts Officer and Others)** dated 04.08.2023, wherein this Court in paragraph No.24 had pointed out that for the period between 2007 and 2012, the University Grants Commission has granted recognition to the sixth respondent University for conducting M.Phil., courses through distance education. Based upon the said fact, the Hon-ble Division Bench of this Court was pleased to allow the writ appeals filed by the concerned Teachers and directed the authorities to confer with the incentive increment.

4. Per contra, the learned Government Advocate appearing for the official respondents pointed out that under G.O(Ms)No.91, Higher Education (K2) Department, dated 03.04.2009, a direction has been issued by the Higher Education Department that, M.Phil / Ph.D courses should not be offered through distance education from the academic year 2007 ~ 2008 and they should be offered only in the regular stream. Therefore, in view of the said Government order, the show cause notice is sustainable.



5. *Heard the submissions made on either side and perused the materials available on record.*

6. *There is no dispute that the petitioner had joined M.Phil course in the year 2007 and completed the same in the year 2008 in the sixth respondent University through distance education. The Hon-ble Division Bench of this Court in W.A.Nos.2328 of 2018, dated 04.08.2023 had an occasion to consider G.O(Ms)No.91, dated 03.04.2009. In paragraph Nos.33 and 34 of the said judgment, the Hon-ble Division Bench of this Court has held that the bar under G.O(Ms)No.91 will apply only for the entry level post and it would not be a bar for conferment of incentive increment.*

7. *In view of the above said facts, the respondents are directed to refund the incentive increment that was retained by them.”*

6. Accordingly, this Writ Petition is disposed of with a direction to the respondents to refund the amount which was withheld by them and pay the incentive increment amount to the petitioner till the date of his retirement by re-fixing the petitioner's pay within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

**20-02-2026**

Index: Yes/No  
Speaking/Non-speaking order  
Neutral Citation: Yes/No  
KKN



To

1. The Secretary to Government,  
Government of Tamil Nadu,  
School Education Department  
Fort St.George, Chennai-09.
2. The Director of School Education,  
College Road, Chennai-6.
3. The Financial Advisor and Principal Accounts Officer,  
School Education Department,  
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**M.DHANDAPANI, J.**

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