



WEB COPY

WP No. 6136 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-02-2026

CORAM

THE HON'BLE MR JUSTICE M.DHANDAPANI

WP No. 6136 of 2026

and

WMP.Nos.6633 & 6635 of 2026

R. Veeramali
W/o Sathiyamoorthy
No 1/49, Rajeshwari Ricemill back side,
Boothankudi Kadaladi, meenangudi,
Ramanathapuram 623 703

..Petitioner(s)

Vs

1. The Director of School Education
Directorate of School Education,
DPI Campus, College Road,
Chennai 600 006
2. The Financial Advisor and Principal Accounts
officer (Audit)
School Education Department,
DPI Compus, College Road,
Chennai 600 006
3. The District Elementary Educational officer
O/o The District Elementary Educational office
Paramakudi
4. The Assistant Elementary Educational officer
O/o The Assistant Elementary Educational



office
Kadaladi,
Ramanathapuram 623 703

5. The block Educational officer
O/o The Assistant Elementary Educational
office,
Kadaladi, Ramanathapuram 623 703

..Respondent(s)

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd Respondent in proceedings having Ref. No Na.Ka. No 053130 / Aakatha / 2024 dated Nil / 07/ 2024 raising audit objection to the grant of incentive for the M.Phil Degree obtained through part time mode and ordering recovery of the incentive granted to the petitioner from the salary of the petitioner from 05.06.2016 and of the 5th Respondent vide Reference No. na.Ka. no 610/ A1 / 2025 dated 19.03.2025 and to quash the same as arbitrary and consequently direct the Respondents to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through Part time along with petitioners salary.

For Petitioner(s): Mr.K.Chandra

For Respondent(s): Ms.Mythreye Chandru, SGP

ORDER

The proceedings of the second respondent in Ref. No Na.Ka. No 053130 / Aakatha / 2024 dated Nil / 07/ 2024 raising audit objection to the grant of incentive for the M.Phil Degree obtained through part time mode and ordering recovery of the incentive granted to the petitioner from the salary of the



petitioner from 05.06.2016 and of the fifth respondent vide Reference No. na.Ka. no 610/ A1 / 2025 dated 19.03.2025, are put under challenge in the present Writ Petition. Further, the petitioner has sought for a direction to the respondents to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through Part time along with petitioner's salary.

2. Heard the learned counsels appearing on either side. With the consent of both sides, the Writ Petition is taken up for hearing at the admission stage itself.

3. The facts which lead to the filing of the present Writ Petition is as follows:

3.1. The petitioner was appointed as Secondary Grade Teacher in the year 1996 in the Education Department and thereafter promoted as Headmaster in the year 2013. He completed M.Phil and obtained the degree from Bharathidasan University, Tiruchirapalli, for which he was granted incentive increment by the fourth respondent on 16.11.2017. While so, the second respondent issued the impugned proceedings dated nil.07.2024 that the petitioner is ineligible for increment for M.Phil Degree on the ground that the same was obtained through distance education mode by citing various Government Letters and G.O.91, Higher Education Department, dated 29.08.2006 and directed the fifth respondent to recover the incentive amount



paid to the petitioner for M.Phil Degree, due to which, the present impugned order dated 19.02.2025 was passed by the fifth respondent for recovery of the incentive amount granted to the petitioner from 05.06.2016. However, the said order was not yet implemented. Challenging the same, the present Writ Petition.

4. The learned counsel for the petitioner submitted that as per G.O.(1D) No.18, School Education (E2) Department, dated 18.01.2013, the impugned order of recovery is not sustainable and the petitioner is eligible for incentive increment for M.Phil Degree. She also drew the attention of this Court to the judgment passed by the Division Bench of this Court in W.A.(MD) No.518 of 2024 and hence, prayed this Court to allow the present Writ Petition.

5. Per contra, the learned Special Government Pleader appearing on behalf of the respondents has not disputed the facts of the case and the contentions put forth by the learned counsel for the petitioner.

6. On perusal of the case reveals that the issue involved in this case is no longer res-judicata, as the same was decided by the Division Bench of this Court in ***W.A.(MD) No.518 of 2024 dated 01.04.2024 [The Director of School Education, College Road, Nungampakkam, Chennai-06 & 2 Others Vs. P.Sarumathi and Another]***. The relevant paragraphs of the said decision is extracted hereunder:



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“10. We are not impressed with the said submission made by the learned Additional Government Pleader appearing for the appellants for the simple reason that the Division Bench has specifically considered the import of G.O(Ms).No.91, Higher Education Department, dated 03.04.2009 at paragraphs 33 and 34 of the judgment in Sivan's case (cited supra) and has held as follows:-

"33. In this context, the learned Government Pleader appearing for the State has relied upon the G.O.Ms.No.91, Higher Education Department, dated 03.04.2009 and has stated that the Government by the said G.O, declared that the M.Phil and Ph.D degree obtained through the correspondence or Distance Education or Open University system are ineligible for Government appointments and appointment as lecturers in colleges or Universities including self-financing colleges, therefore the import of the said G.O.Ms.No.91, dated 03.04.2009 if it is implemented that will stand in the way for extending the benefit of advance incentive increment to the teachers.



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34. However, the said submission made by the learned Government Pleader is liable to be rejected because, the said G.O has only mentioned about the eligibility for a person to get employment. Here, the teachers, as per earlier qualification acquired already, been appointed as teachers or lecturers and the benefit now questioned is only the grant of advance incentive increment for having acquired the higher qualification. Therefore, the G.O.Ms.No.91 dated 03.04.2009 issued by the Higher Education Department does not deal with anything about the allowing of advance incentive increment to the teachers, who acquired higher qualification, therefore, that argument made by the learned Government Pleader also is to be rejected and accordingly, it is rejected."

11. Therefore, the said consideration which was made by the Division Bench in Sivan's case (cited supra) is pertaining to the degree secured by many candidates from Vinayaga Mission University during the relevant point of time through correspondence education whether would be entitled to seek for



advance incentive increment or not. Therefore, the declaration what has been made under G.O(Ms).No.91 cannot be applied to the case of advance incentive increment seekers like the writ petitioner/1st respondent. Therefore, such an argument advanced by the learned Additional Government Pleader is to be rejected and accordingly rejected.

12. Resultantly, since the issue is covered by the said Division Bench judgment in Sivan's case, the order passed by the Writ Court which is impugned herein dated 22.11.2023 made in W.P(MD)No.18350 of 2020 is to be sustained. Accordingly, this Writ Appeal is to be rejected and hence it is dismissed. No costs. In view of the dismissal of the writ appeal, the direction given by the Writ Court through the impugned order shall be complied with by the appellants within a period of three months from the date of receipt of a copy of this judgment. Consequently, connected miscellaneous petition is closed.”

Thus, the aforesaid extract is self explanatory. In the case on hand, it is pertinent to note that the petitioner has obtained the M.Phil degree in Tamil through distance education mode and the pattern of study by the petitioner is also in the form of 10+2+3+2, which is permissible.



7. Considering the facts and circumstances of the case and also in the light of the decision of the Hon'ble Division Bench of this Court as stated supra, the impugned orders of the second and fifth respondent, are hereby set aside.

Consequently, the Writ Petition stands allowed. Connected Miscellaneous Petitions are closed. There shall be no order as to costs.

24-02-2026

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

DP



To

1. The Director of School Education
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M.DHANDAPANI, J.

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