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W.P.No.6941 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2026

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.6941 of 2024

And

W.M.P.No.7739 of 2024

S.Thenmozhi

... Petitioner

Vs.

- 1 THE STATE OF TAMIL NADU
REP. BY ITS PRINCIPAL SECRETARY TO GOVERNMENT,
SCHOOL EDUCATION DEPARTMENT,
FORT ST.GEORGE,
SECRETARIAT,
CHENNAI 600 009.
- 2 THE DIRECTOR OF ELEMENTARY EDUCATION,
DPI CAMPUS, COLLEGE ROAD,
CHENNAI 600 006.
- 3 THE CHIEF EDUCATIONAL OFFICER,
TIRUPPUR DISTRICT,
TIRUPPUR.
- 4 THE DISTRICT EDUCATIONAL OFFICER (ELEMENTARY),
THARAPURAM EDUCATIONAL DISTRICT,
TIRUPPUR DISTRICT.
- 5 THE BLOCK EDUCATIONAL OFFICER,
VELLAKOVIL UNION,
TIRUPPUR DISTRICT.

... Respondents



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Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order by the fifth respondent vide Na.Ka.No.645/AA1/2020 dated 05.09.2023 and to quash the same and consequently directing the respondents 1 to 5 grant incentive increment for the petitioner.

For Petitioner : Mr.S.Nedunchezhiyan
For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader

ORDER

This writ petition has been filed seeking issuance of Writ of Certiorarified Mandamus calling for the records relating to the order of the fifth respondent vide Na.Ka.No.645/ AA1/2020 dated 05.09.2023 and to quash the same and consequently directing the respondents 1 to 5 to grant incentive increment for the petitioner.

2.The learned counsel appearing for the petitioner submitted that the petitioner was qualified with Diploma in Teacher Education (D.T.Ed.) in the year 1992 and acquired B.Com. in 1992 and M.Com. in 1999. The petitioner was appointed as Secondary Grade Teacher in Elementary Education vide order dated 15.07.2009 and she joined the



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post on 16.07.009. The learned counsel further submitted that as per G.O.Ms.No.324, Education, Science and Technology Department, dated 25.04.1995, the petitioner is entitled for incentive increment for acquiring higher qualification and the petitioner was sanctioned with incentive increment for acquiring B.Com. and M.Com. with effect from 31.05.2012, however, the incentive increment was stopped by the respondents vide impugned order dated 05.09.2023 and the petitioner was instructed to repay the incentive increment granted in her favour, which is not sustainable one.

3.The learned counsel appearing for the petitioner further submitted that the issue involved is no longer res integra. It has already been decided by the Hon'ble Division Bench of this Court in ***W.A.No.2747 of 2023 [The Government of Tamil Nadu, Represented by its Secretary, School Education Department, Fort St.George, Chennai and others Vs. G.Saraswathi]*** dated ***28.03.2025*** and the Hon'ble Division Bench of this Court directed the appellants therein to grant two sets of incentive increments to the respondent therein. Accordingly, he prayed for allowing the writ petition.



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4.Per contra, the learned Special Government Pleader appearing for the respondents submitted that the Scheme of incentive increment is a concession and not part of service condition and further submitted that incentive increments are granted to encourage the Teachers on acquiring additional higher educational qualification for the benefit of students studying in the School with the hope that the Teachers on acquiring higher educational qualification will impart better education to the children studying in the School. She further submitted that the petitioner is working as Secondary Grade Teacher and taking classes for the subjects of Tamil, English, Mathematics, Science and Social Science and M.Com. Degree acquired by her is of no relevance as to the post of Secondary Grade Teacher is concerned and further submitted that the incentive increments for acquiring higher qualifications in commerce was granted erroneously and hence the impugned order was passed. Accordingly, she prayed for dismissal of the writ petition.

5.Heard the arguments advanced on either side and perused the materials available on record.



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6.The petitioner was qualified with Diploma in Teacher Education (D.T.Ed.) in the year 1992 and acquired B.Com. in 1992 and M.Com. in 1999. The petitioner was appointed as Secondary Grade Teacher in Elementary Education vide order dated 15.07.2009 and she joined the post on 16.07.009. The petitioner was sanctioned with incentive increment for acquiring B.Com. and M.Com. with effect from 31.05.2012, however, the incentive increment was stopped by the respondents vide impugned order dated 05.09.2023 and the petitioner was instructed to repay the incentive increment granted in her favour.

7.Perusal of G.O.Ms.No.324, Education, Science and Technology Department, dated 25.04.1995, makes it clear that for sanction of incentive increments, the subjects in the higher secondary syllabus shall be relevant subjects. In the present case, the petitioner acquired higher qualification as per the higher secondary syllabus and she was also granted incentive increment, however, it was later stopped and the petitioner was instructed to repay the incentive increment granted in her favour, which is not sustainable one.

8.It is useful to extract hereunder the relevant portion of the



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decision of the Hon'ble Division Bench of this Court in **W.A.No.2747 of 2023 [The Government of Tamil Nadu, Represented by its Secretary, School Education Department, Fort St.George, Chennai and others Vs. G.Saraswathi]** dated **28.03.2025**:

"10. However, the Director of Elementary Education issued a clarificatory letter on 24.08.2016 restricting the benefit of incentive increments only to those subjects that are normally taught in Schools, namely, Tamil, English, Mathematics, Science and Social Science. The said letter specifically excluded degrees obtained in Commerce, Economics and Computer Science etc., from being considered for grant of incentive increments. This letter was put to challenge in the writ petition.

11. The learned single Judge rightly concluded that this letter dated 24.08.2016 overwrites or overreaches the effect of G.O. (Ms.)No.324 dated 25.04.1995. The learned single Judge invoked the principle that a Government Order issued under the orders of the Governor cannot be rewritten by a head of the Department.



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12. Though Mr.U.M.Ravichandran, learned Special Government Pleader would vehemently contend that this is only a clarification, we are unable to accept his submission. When G.O.(Ms.)No.324 dated 25.04.1995 specifically declares that all higher qualifications obtained in subjects which form part of the higher secondary syllabus shall be entitled to grant of incentive increments, the Director of Elementary Education, by his letter, cannot narrow down the scope of the Government Order.

13. Today the entire scheme for incentive increments has been withdrawn but the issue as to whether the said withdrawal can only be prospective and it cannot operate retrospectively still lingers. We do not see the need to go into the said issue as it is not germane to the facts on hand. Here the respondent has completed M.A.(Economics) in May 2010 and B.Ed. in December 2015. Therefore, she is entitled to two sets of advance incentive increments for these two higher qualifications obtained by her. The question of whether M.A.(Economics) would be useful to the School students or not cannot be gone into by us, as the Government, in its



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wisdom, had in G.O.(Ms.)No.324 dated 25.04.1995, consciously decided to confer the benefit of the incentive increments on all teachers who obtained higher qualifications in any subject found in the higher secondary syllabus.

14. Therefore, we are unable to fault the order of the learned single Judge. The Writ Appeal therefore fails and it is accordingly dismissed. There will be a direction to the appellants to grant two (2) sets of incentive increments, one for B.Ed. qualification and another for M.A.(Economics), to the respondent with effect from the date of acquisition of the qualifications and pass orders within a period of eight (8) weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petitions are closed."

9.Applying the ratio laid down by the Hon'ble Division Bench of this Court in the decision cited supra, this Court is inclined to set aside the impugned order. Accordingly, the order passed by the fifth respondent vide Na.Ka.No.645/ AA1/2020 dated 05.09.2023 is set aside.



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10.The writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

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