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WP No. 8434 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-02-2026

CORAM

THE HON'BLE MR JUSTICE M.DHANDAPANI

WP No. 8434 of 2024

and

WMP Nos. 9388, 9389 and 26212 of 2024

E.Sarasau
D/o.Elumalai,
No.1/52, Venkatesan First Cross Street,
Bharathiar Nagar,
Keelamaruvathur Village,
Maruvathur Post,
Cheyyar Taluk,
Chengalpattu District.

..Petitioner(s)

Vs

1. The State of Tamil Nadu
Rep by its Principal Secretary to Government
School Education Department,
Secretariat, Fort St George, Chennai.
2. The Director of School Education
DPI Campus,
College Road, Chennai.
3. The Joint Director of School Education
(Vocational)
Directorate of School Education,
DPI Campus, College Road, Chennai.
4. The Chief Educational Officer
Chengalpattu District,
Chengalpattu.



5. The District Educational Officer
Maduranthakam Educational District,
Chengalpattu District.

6. The Head Master
Government Higher Secondary School,
Sothupakkam, Maduranthakam Taluk,
Chengalpattu District.

..Respondent(s)

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in Na. Ka. No. 75940 / K / E1 / 2023-3 dated 06.03.2024 on the file of the 3rd respondent and consequential order in Na. Ka. No. 1571 / A4 / 2022 dated 11.03.2024 on the file of the 4th respondent and quash the same and further, direct the 3rd respondent to grant incentive increment to the petitioner.

For Petitioner(s): M/s.S.Uma Maheswari

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

ORDER

This petition has been filed challenging the order of the 3rd respondent dated 06.03.2024 and consequential order of the 4th respondent dated 11.03.2024 and seeking a direction to the 3rd respondent to grant incentive increment to the petitioner.



2. The case of the petitioner is that, after completing SSLC and Higher Secondary, she qualified for B.Sc (Chemistry), and thereafter, pursued a two years Master of Physical Education and Sports (M.P.E.S) degree from Annamalai University in 1989. In the meanwhile, she was appointed as a Physical Education Teacher under the Secondary Grade Teacher cadre on 19.10.2000 in the School Education Department through the Employment Exchange and was posted at Government Higher Secondary School, Karasanur, Villupuram District. Prior to joining service, the petitioner had enrolled in an M.Phil degree course. After joining the post of Physical Education Teacher, she attended the viva voce examination for the M.Phil degree and completed the same in 2001. She was granted an incentive increment for acquiring the M.Phil, degree with effect from 16.10.2001 in accordance with G.O.Ms.No.324 dated 25.04.1995. Subsequently, an audit objection was raised stating that Physical Education Teachers appointed based on M.P.E.S or M.P.Ed., qualification are not eligible for promotion as well as incentive increments as per Government Letter dated 15.02.2011. Consequently, the incentive increment was stopped from 2014 onwards. Aggrieved by the same, the petitioner had filed W.P No.30913 of 2023, wherein this Court directed the 3rd respondent to dispose of the appeal within a period of four weeks. Pursuant to the said order, the 3rd respondent passed the impugned order dated 06.03.2024, based on an letter dated 15.02.2011 and also directed recovery of the excess amount already received by the petitioner. Hence, the present writ petition has been filed.



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3.The learned counsel appearing for the petitioner would submit that though the M.Phil degree may not be a relevant qualification for a Physical Education Teacher, the P.G Diploma in Yoga is a relevant qualification for the said post. He further contended that, in view of the principle laid down in the “*White Washer*” judgment, any amount already received by the petitioner cannot be recovered, especially when there was no misrepresentation or fault on her part. He fairly submitted that the petitioner may not be entitled to incentive increment in respect of the M.Phil degree, however she is entitled to incentive increment for the P.G Diploma in Yoga from the date of completion of the said course. Accordingly, he prayed for appropriate orders.

4.Per contra, the learned Special Government Pleader appearing for the respondents filed a counter affidavit, wherein, in paragraphs 4, 18, 19, 20, and 21, it is stated as follows:

4.It is submitted that the petitioner’s claim for incentive increments based on her M.Phil and P.G Diploma in Yoga qualifications has already been rejected by the respondents while passing orders in obedience to the Madras High Court’s judgment dated 31.10.2023 in W.P No.30913 of 2023. In the said judgment, this Court directed that



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the representation of the writ petitioner should be considered in accordance with law.

18.It is submitted that the petitioner's contention that the cancellation of the incentive increment scheme does not affect her entitlement to increments for her M.Phil and PG Diploma in Yoga is without merit. The Government Order in G.O.Ms.No.37 clearly states that the scheme is cancelled prospectively, and thus, any qualifications obtained after the effective date of his order do not qualify for incentive increments. And the classification of degrees for Physical Education Teacher/Physical Director positions as per G.O.Ms.No.177 dated 13.10.2016, which specifies approved qualifications for incentive increments, does not support the petitioner's claim. The directive clearly stipulates that teachers could only qualify for a second incentive increment from the date of Government order, which postdates the petitioner's acquisition of her qualifications.

19.It is submitted that the qualification required for the appointment of Physical Education Teacher (in Secondary Grade cadre) is CPED., (or) BPED., (or) BPES (or) BMS (or) M.P.Ed.,(or) M.P.E.S (or) Diploma or Degree in Physical Education. It is submitted that after



finishing 3 years course of BPES, the MPES course can be completed in 2 years.

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20.It is submitted that the petitioner entered the Government service on 19.10.2000 as Physical Education Teacher (under Secondary Grade cadre) which declared by the petitioner in her both the writ petitions as well available in her service register. The petitioner completed her two years course of MPES directly without studying BPED (three years) or BPES. It is submitted that the G.O.Ms.No.26 dated 23.02.2003 prescribes M.P.Ed., and M.P.Es. qualifications as one of the qualifications for appointment to the post of Physical Education Teacher expressly which does not mean that the integrated M.P.Ed., and M.P.E.S are previously excluded or the candidates possessing such qualifications are not eligible for appointment to the post of Physical Education Teacher. The integrated Master Degree for two years is inclusive of Bachelor Degree as well.

21.It is further submitted that during the year 2000 and before, few universities offered the MPES Integrated course (i.e) BPES one year and MPES one year. The teacher those completed this Integrated course joined Government services and worked as Physical Education Teacher (under Secondary Grade cadre). As her appointment are against the norms and the teachers approached the Honourable Court



to secure her job and also Physical Education Teachers Association submitted the request to the Government for considering their appointments. The equivalency certificate towards the degree obtained (M.P.Ed. and M.P.E.S) from the University to be established towards to consider by the authority.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. The facts of the present case are not in dispute. Admittedly, the petitioner entered service as a Physical Education Teacher in the cadre of Secondary Grade Teacher. She initially acquired the higher qualification of M.Phil. and was granted incentive increment for acquiring the said higher qualification from the year 2001. However, the same was subsequently cancelled on the ground that Physical Education Teachers appointed based on M.P.E.S or M.P.Ed., qualifications are not entitled for promotion as well as incentive increment. It is also admitted that M.Phil is not a relevant qualification for a Physical Education Teacher. Hence, the cancellation of the incentive increment from the year 2014 cannot be interfered with. Insofar as the claim relating to incentive increment for the P.G Diploma in Yoga is concerned,



the said qualification is a relevant subject for a Physical Education Teacher.

Hence, the petitioner is entitled to incentive increment for the P.G Diploma in Yoga from the year 2017, i.e from the date of completion of the said course.

However, with regard to the claim for incentive increment based on M.Phil, the petitioner is not entitled to the same. Further, the incentive increment already granted to the petitioner, which was subsequently cancelled in 2014, need not be recovered. The receipt of such benefit was not on account of any misrepresentation or fraud on the part of the petitioner. The respondents themselves, upon being satisfied, had granted the incentive increment. Therefore, while upholding the cancellation of the incentive increment, this Court is inclined to direct that the amount already paid to the petitioner shall not be recovered.

7. In view of the above, the respondents are directed to grant incentive increment to the petitioner for acquiring the higher qualification of P.G Diploma in Yoga from the year 2017, subject to verification and satisfaction of the qualification possessed by the petitioner. The said benefit shall be extended to the petitioner within a period of twelve (12) weeks from the date of receipt of a copy of this order.



8. With the above direction, this writ petition is partly allowed. No costs.

Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

UMA

To

1. The Principal Secretary to Government School
Education Department, Secretariat, Fort St
George, Chennai.
2. The Director of School Education
Dpi Campus, College Road, Chennai.
3. The Joint Director of School Education
(vocational)
Directorate of School Education, DPI Campus,
College Road, Chennai.
4. The Chief Educational Officer
Chengalpattu District, Chengalpattu.
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M.DHANDAPANI J.

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