

(2013) 09 MAD CK 0012
In the Madras High Court
Case No : Writ Petition No's. 27252

R. Bakthavachalam

APPELLANT

Vs

Director of School Education, Chief Educational Officer Vellore
and Headmaster T.E.M. Government Girls Higher Secondary
School

RESPONDENT

Date of Decision : 02-09-2013

Acts Referred:

Citation : (2013) 09 MAD CK 0012

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : P. Ganesan for M/s. C.S. Associates, for the Appellant; V. Subbiah,
Spl. G.P, for the Respondent

Final Decision : Allowed

Judgement

D. Hariparanthaman, J.—Both the petitioners are working as P.G. Assistants. They are seeking for incentive increment for acquiring M.Phil

Degree. They acquired M.Phil Degree after 1.3.1993. According to the petitioners, earlier the Government issued G.O. 1170 Education, Science

and Technology Department dated 20.12.1993, as per which the P.G. Assistants, who acquired M.Phil Degree before 1.3.1993 are entitled to

incentive increment. The cut off date fixed as 1.3.1993 was subsequently set aside by this Court. Thereafter, the Government issued G.O.Ms. No.

194, School Education Department dated 10.10.2006 deleting the cut off date as found in G.O.Ms. No. 1170 Education, Science and

Technology Department dated 20.12.1993. In the circumstances, the petitioners have sought for sanction of incentive increment for acquiring

M.Phil Degree, while they are working as P.G. Assistant.

2. The respondents have filed the counter affidavit refuting the allegations. According to the respondents, the petitioners are not entitled to incentive

increment for acquiring M.Phil Degree. It is stated that the petitioners already obtained two advance increments, one at the time when they were

serving as B.T. Assistant and the other when they are serving as P.G. Assistant. It is their case that there cannot be any third advance increment.

3. Heard both sides.

4. The learned counsel for the petitioner has relied on G.O.Ms. No. 194, School Education Department dated 10.10.2006 and also the judgment

of this Court dated 27.4.1998 in W.P. Nos. 14880 of 1994 etc., batch cases (P. Duraisamy vs. Director of School Education, Chennai 6) and

also the judgment dated 20.12.2007 in W.P.(MD) No. 2528 of 2007. The learned counsel for the petitioner has also relied on the two Division

Bench judgments dated 20.6.2006 in W.A. Nos. 2604 to 2606 of 1999 and 27.6.2008 in W.A. No. 426 of 2008.

5. As rightly contended by the learned counsel for the petitioner, the cut off date of 1.3.1993 as prescribed in G.O.Ms. No. 1170 was

subsequently deleted in G.O.Ms. No. 194. Hence, the petitioners are entitled to incentive increment for acquiring M. Phil degree.

6. It is true that the petitioners were granted incentive increment for acquiring P.G. degree during their service as B.T. Assistant. Thereafter, the

petitioners obtained M.Ed., Degree while they were serving as Post Graduate Assistant and they were also granted incentive increment for the

same. Thereafter, the petitioners acquired M.Phil Degree after 1.3.1993. Their claim for grant of incentive increment was declined on the ground

that M.Phil Degree was obtained after 1.3.1993. Now, as stated above, as per G.O.Ms. No. 194, even for acquiring M.Phil Degree, that is

obtained after 1.3.1993, the Post Graduate Teachers are entitled for incentive increment.

7. Further more, the Division Bench in the judgments, dated 20.6.2006 in W.A. Nos. 2604 to 2606 of 1999 and dated 27.6.2008 in W.A. (MD)

No. 426 of 2008 have categorically held that the third set of advance increment to the Post Graduate Assistant cannot be denied. The following

passages found in paragraph 2 of the Division Bench judgment dated 20.6.2006 in W.A. Nos. 2604 to 2606 of 1999 etc., batch cases is

extracted hereunder:

2...Moreover, the learned counsel appearing for the respondents, has produced a copy of the judgment rendered by a Division Bench of this Court

in W.A. no. 2307 of 1999, wherein, similar issue in regard to payment of incentive increments came up for consideration and after narrating all the

relevant G.Os related to payment of incentive increments for acquiring higher qualifications, such M.A., M.Sc., M.Phil, M.Ed., etc., the Bench has

ultimately held as under:

6. Similarly after the said G.O., dated 9.12.1993, similar question came up for consideration before this Court in W.P. No. 20437 of 1993. This

Court by order dated 2.3.1994 has upheld the payment of 3rd set of two advance increments to the P.G. Assistants. Likewise, entitlement of P.G.

Teachers for 3rd set of two advance increments also came up for consideration before this Court in W.P. No. 8078 of 1994 and this Court by

order dated 1.2.1995 has upheld the said order. For the above reasons, we find that the appellant is entitled to the benefit of G.O.Ms. No. 747,

Finance Department dated 18.8.1986 together with G.O.Ms. No. 1023, Education, Science and Technology Department dated 9.12.1993.

Hence, we see no merit in the order of the second respondent dated 29.11.1989 in withdrawing the 3rd set of two advance increments given to

the petitioner. Accordingly, the Writ Appeal impugned proceedings dated 29.11.1989 and the order of the learned single Judge are set aside. No

costs.

8. The other cases cited by the learned counsel for the petitioner are also of similar in nature. In all those cases, the Post Graduate Assistants

claimed only the third set of incentive increment for acquiring M.Phil Degree and their claim was allowed. Taking into account the aforesaid

judgments and also G.O.Ms. No. 194 School Education Department dated 10.10.2006, the Writ Petitions are allowed and the impugned orders

are quashed and a direction is issued to the respondents 1 and 2 to provide incentive increment to the petitioners from the date on which they

acquired M.Phil Degree, within a period of eight weeks from the date of receipt of a copy of this order. No costs.