

W.P.No.34618 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: **30.01.2025**

CORAM:

**THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

**W.P.No.34618 of 2024**  
**and W.M.P.No.37551 of 2024**

K.Jayagopi

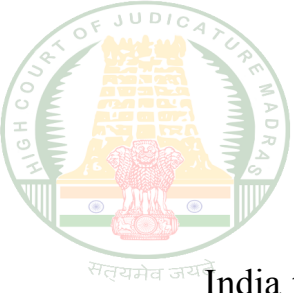
... Petitioner

-VS-

- 1.The Director of School Education (Service Division),  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 2.Financial Advisor & The Principal Accounts Officer,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.
- 4.The Headmaster,  
Government Municipal Higher Secondary School,  
Gudiyatham,  
Vellore District – 632 602.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of



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India to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.053130/AaKaTha/2023 dated 16.05.2024 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Municipal Higher Secondary School, Gudiyattham, Vellore, for the M.Phil Degree obtained through distance mode and ordering recovery of the incentive granted to the petitioner from the salary of the petitioner from 31.03.2018 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

For Petitioner : Ms.C.Uma

For Respondents : Mrs.S.Mythreye Chandru,  
1 to 3 Special Government Pleader  
(Education)

For Respondent 4 : No Appearance

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### **ORDER**

This petition is filed seeking to issue a Writ of Certiorarified

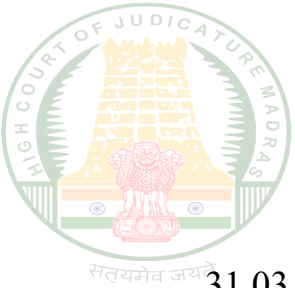


W.P.No.34618 of 2024

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Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.053130/AaKaTha/2023 dated 16.05.2024 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Municipal Higher Secondary School, Gudiyattham, Vellore, for the M.Phil Degree obtained through distance mode and ordering recovery of the incentive granted to the petitioner from the salary of the petitioner from 31.03.2018 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

2. The case of the petitioner is that, he was appointed as a B.T. Assistant in Government Panchayat Union Middle School, Mettupalayam, Pernampet Block, Vellore District on 16.03.2007. The petitioner was granted permission by the first respondent to pursue M.Phil degree and completed M.Phil in the year 2018. For the same the fourth respondent sanctioned salary increment in his proceedings Na.Ka.No.028468/C3/E3/2016 dated 03.08.2016. Subsequently, second incentive for M.Phil degree was given to the petitioner with effect from



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31.03.2018. The second respondent issued proceedings vide Ref.No.Na.Ka.No.053130/AaKaTha/2023 dated 16.05.2024 raising audit objections for the grant of incentive for M.Phil degree which was obtained through part time mode. Further the audit department directed the fourth respondent to compute the loss suffered by the Government for the grant of salary incentive to the petitioner and ordered to recover the said loss from the salary of the petitioner. Challenging the same the petitioner came up with the present writ petition.

3. The learned counsel for the petitioner submits that the Sri Chandrasekharaendra Saraswathi Viswa Mahavidyalaya University, Kancheepuram was declared as Deemed to be University under Section 3 of University Grant Commission, 1956 by Ministry of Human Resource Development on the advice of University Grants Commission as per the Notification No.F.9-9/92-U3 dated 26.05.1993 by Government of India, hence Sri Chandrasekharaendra Saraswathi Viswa Mahavidyalaya University is duly recognized by UGC. Further, the learned counsel for the petitioner relied upon the Judgment of this Court in supporting their contentions in W.A.No.2328 of 2018, wherein the Division Bench



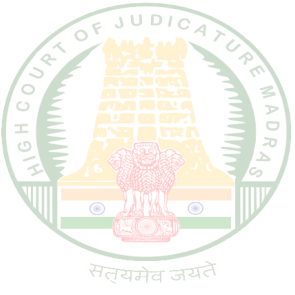
W.P.No.34618 of 2024

allowed writ appeal not to cancel or stop the increment already given.

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The petitioners are entitled for the said incentive and prayed to allow the writ petition.

4. The learned Special Government Pleader contends that the Internal audit wing of the school education department took the view that the Government Letter No.268/Higher Education (k2) Department dated 29.08.2006 and GO No.91 Higher Education (K2) Department dated 03.04.2009 and the proceedings of the Director of School Education in reference No.Na.Ka.No.081477/KE/2014 dated 27.10.2014 from the academic year 2007-08 the degrees by Correspondence / Distance Education Mode / Open University / Part time are ineligible for appointment in Government service. Hence the Government of Tamil Nadu has not granted permission to obtain the M.Phil / Ph.D degree in correspondence / Part Time mode and having obtained the higher education degree through unrecognised mode the petitioner's incentive increments from 31.03.2018 is withdrawn. In this case, the petitioner has obtained the M.Phil which cannot be accepted as an appropriate degree and prayed for dismissal of the writ petition.



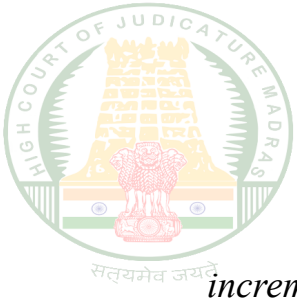
W.P.No.34618 of 2024

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5. The learned counsel for the respondents also would contend that the petitioner cannot ask for quashing the impugned order on the basis of Government G.O.(1D) No.18 dated 18.01.2013 the petitioners should not be entitled to even a grade for appearing in the said courses, but only from the date of the G.O passed in the year 2013 that is 18.01.2013 onwards. Further, it was submitted by the respondent's counsel that the authorities have taken the matter up to Supreme Court in SLP and that SLP is dismissed.

6. Recording the W.A.No.2328 of 2018 batch wherein the Hon'ble Division Bench held which 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*



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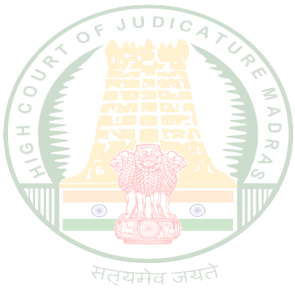
increment to the teachers.

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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.

35. In the result, the following orders are passed in these writ appeals:

- That the impugned order passed by the writ Court dated 06.09.2018 is set aside. As a sequel, the impugned order that was challenged before the Writ Court in the respective petitions is also set aside to the extent that those teachers who had studied in the Vinayaka Mission's University during the relevant point of time i.e., 2007 to 2009 since had acquired the qualification during the period which the University also enjoyed the approval or recognition from the DEC, IGNO, the said objection raised by the audit Department would not be sustained. Therefore, on that ground, the incentive increment already allowed to these teachers need not be disturbed. If the increment already been allowed to



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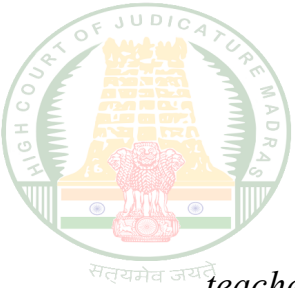
*these teachers have been cancelled or stopped by virtue of the order, which is impugned herein, the same shall be restored and the arrears to that effect shall be calculated and be paid to the teachers/appellants. To that extent, all these writ appeals are allowed. No costs. Connected miscellaneous petitions are closed.”*

7. In similar matter in W.A(MD).No.1124 of 2023 the Division Bench of this Hon'ble Court by order dated 24.07.2023, the Hon'ble Court has held that:-

*“2. The application for incentive was rejected only on the ground that the first respondent had not obtained prior permission of the authorities for undergoing higher education. Therefore, the learned Single Judge of this Court, allowed the Writ Petition, following the view taken by this Court by another Judge of this Court in J.Tamilrajan .vs. Department of School Education and others passed in W.P(MD)No.4019 of 2018. It is now admitted before this Court the same view of this Court was affirmed in W.A(MD)No.813 of 2021 in the case of the Director of School Education, DPI Campus, College Road, Chennai -6 .vs. G.Anandhi, dated 16.4.2021.*

*3. This Court find that the issue is no-more resintegra in view of the several judgments on this issue holding that the claim of teachers for incentive increment cannot be rejected on the ground that the concerned*





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*teacher had not obtained prior permission of the authorities for undergoing higher education. Since the issue has been settled by precedents, this Court is unable to countenance the arguments advanced by the learned counsel for the appellants.*

*It is true that there are several Government Order which have insisted the requirement of permission of the educational authorities for a teacher to undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher qualification is to encourage the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service will have to obtain prior permission as per the Government Orders. Further it is to be noted that acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity and that will not entitle the respondents to reject the benefit to the teachers.*

*4. Considering the overall policy of the Government, there is no reason to take a different view as expressed by the learned Single Judge. The decision relied upon by the learned Single Judge in the subject-matter in issue has been subsequently affirmed by the learned Division Bench of this Court. Hence this Court finds no merit in the Writ Appeal and the same is liable to be dismissed.*

*5. Accordingly, the Writ Appeal stands dismissed. No costs. The appellants are directed to comply with the direction of the learned Single Judge within a period of twelve weeks from the date of receipt of a copy*

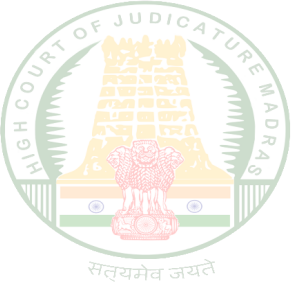


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*of this judgment. Consequently connected Miscellaneous Petition is dismissed.”*

8. In view of the aforesaid decision as well as various decisions rendered by the Hon'ble Apex Court and Hon'ble Division Bench, this Court is of the view that the petitioners is entitled for incentive increment who had acquired M.Phil degree and the same to be paid. It is also to be noted that the incentive increment cannot be rejected on the ground that they have not obtained prior permission of the authorities for undergoing higher education and also regarding the M.Phil degree through distance mode / part time mode is not eligible for incentive increment. Further, the fourth respondent till date has not made any recovery and hence no other issue to the effect regarding the eligibility. Hence, the petitioner is eligible for incentive from the date of 18.01.2013.

9. Accordingly, this writ petition is disposed of on the above terms. No costs. Consequently, the connected writ miscellaneous petitions are closed.



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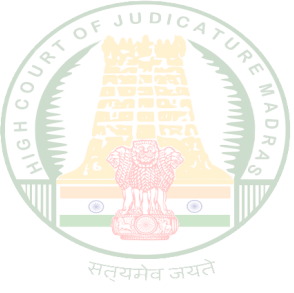
Index: Yes/No  
Speaking order/Non-speaking order  
rna

**To**

- 1.The Director of School Education (Service Division),  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 2.Financial Advisor & The Principal Accounts Officer,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.
- 4.The Headmaster,  
Government Municipal Higher Secondary School,  
Gudiyatham,  
Vellore District – 632 602.

**V.BHAVANI SUBBAROYAN,J.**

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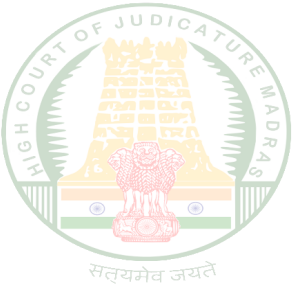


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**W.P.No.34618 of 2024**  
**and W.M.P.No.37551 of 2024**

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**30.01.2025**  
**(2/2)**



W.P.No.33995 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: **30.01.2025**

CORAM:

**THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

**W.P.No.33995 of 2024**  
**and W.M.P.Nos.36807 & 36808 of 2024**

S.Rajakumari

... Petitioner

-VS-

1.The Director of School Education (Service Division)  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.

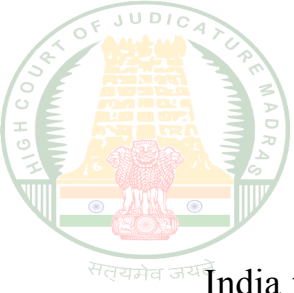
2.Financial Advisor & The Principal Accounts Officer,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.

3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.

4.The Headmaster,  
Government Higher Secondary School,  
Nellorepettai, Gudiyatham,  
Vellore District – 632 602.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of



W.P.No.33995 of 2024

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India to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.053130/AaKaTha/2023 dated 16.05.2024 raising audit objection to the grant of incentive to the petitioner who is working as PG Assistant in the Government Municipal Higher Secondary School, Gudiyattham, Vellore, for the M.Phil Degree obtained through distance mode and ordering recovery of the incentive granted to the petitioner from the salary of the petitioner from 12.01.2018 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through distance mode along with the petitioner's salary.

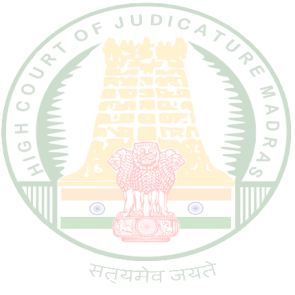
For Petitioner : Ms.C.Uma

For Respondents : Mrs.S.Mythreye Chandru,  
1 to 3 Special Government Pleader  
(Education)

For Respondent 4 : No Appearance

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**ORDER**

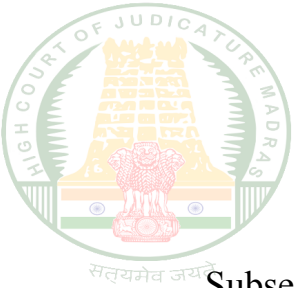


W.P.No.33995 of 2024

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This petition is filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.053130/AaKaTha/2023 dated 16.05.2024 raising audit objection to the grant of incentive to the petitioner who is working as PG Assistant in the Government Municipal Higher Secondary School, Gudiyattham, Vellore, for the M.Phil Degree obtained through distance mode and ordering recovery of the incentive granted to the petitioner from the salary of the petitioner from 12.01.2018 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through distance mode along with the petitioner's salary.

2. The case of the petitioner is that, he was appointed as a P.G. Assistant in Government High Secondary School, Nellorepet, Vellore District on 02.01.2013. The petitioner was granted permission by the first respondent to pursue M.Phil degree and completed M.Phil in the year 2018. For the same the fourth respondent sanctioned salary increment in his proceedings O.Mu.No.86262/W3/E1/2014 dated 14.11.2014.



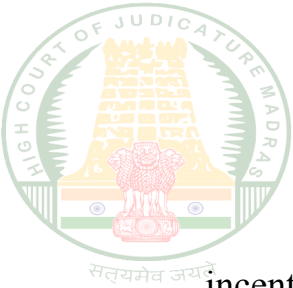
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Subsequently, second incentive for M.Phil degree was given to the petitioner with effect from 12.01.2018. The second respondent issued proceedings vide Ref.No.Na.Ka.No.053130/AaKaTha/2023 dated 16.05.2024 raising audit objections for the grant of incentive for M.Phil degree which was obtained through part time mode. Further the audit department directed the fourth respondent to compute the loss suffered by the Government for the grant of salary incentive to the petitioner and ordered to recover the said loss from the salary of the petitioner. Challenging the same the petitioner came up with the present writ petition.

3. The learned counsel for the petitioner submits that the Thiruvalluvar University, Vellore is established by Government of Tamil Nadu in 2002, recognized by UGC under 2(f) and 12(b) of UGC Act, hence, Thiruvalluvar University, Vellore is duly recognized by UGC. Further, the learned counsel for the petitioner relied upon the Judgment of this Court in supporting their contentions in W.A.No.2328 of 2018, wherein the Division Bench allowed writ appeal not to cancel or stop the increment already given. The petitioners are entitled for the said





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incentive and prayed to allow the writ petition.

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4. The learned Special Government Pleader contends that the Internal audit wing of the school education department took the view that the Government Letter No.268/Higher Education (K2) Department dated 29.08.2006 and GO No.91 Higher Education (K2) Department dated 03.04.2009 and the proceedings of the Director of School Education in reference No.Na.Ka.No.081477/KE/2014 dated 27.10.2014 from the academic year 2007-08 the degrees by Correspondence / Distance Education Mode / Open University / Part time are ineligible for appointment in Government service. Hence the Government of Tamil Nadu has not granted permission to obtain the M.Phil / Ph.D degree in correspondence / Part Time mode and having obtained the higher education degree through unrecognised mode the petitioner's incentive increments from 12.01.2018 is withdrawn. In this case, the petitioner has obtained the M.Phil which cannot be accepted as an appropriate degree and prayed for dismissal of the writ petition.

5. The learned counsel for the respondents would contends that the



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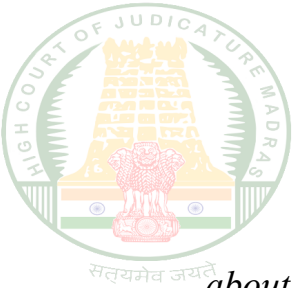
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petitioner also cannot ask for quashing the impugned order on the basis of Government G.O.(1D) No.18 dated 18.01.2013 the petitioners should not be entitled to even a grade for appearing in the said courses, but only from the date of the G.O passed in the year 2013 that is 18.01.2013 onwards. Further, it was submitted by the respondent's counsel that the authorities have taken the matter up to Supreme Court in SLP and that SLP is dismissed.

6. Recording the W.A.No.2328 of 2018 batch wherein the Hon'ble Division Bench held which 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.*

*34. However, the said submission made by the learned Government Pleader is liable to be rejected because, the said G.O has only mentioned*

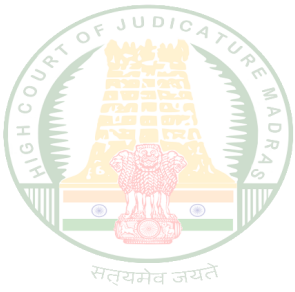


W.P.No.33995 of 2024

*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.*

*35. In the result, the following orders are passed in these writ appeals:*

- That the impugned order passed by the writ Court dated 06.09.2018 is set aside. As a sequel, the impugned order that was challenged before the Writ Court in the respective petitions is also set aside to the extent that those teachers who had studied in the Vinayaka Mission's University during the relevant point of time i.e., 2007 to 2009 since had acquired the qualification during the period which the University also enjoyed the approval or recognition from the DEC, IGNO, the said objection raised by the audit Department would not be sustained. Therefore, on that ground, the incentive increment already allowed to these teachers need not be disturbed. If the increment already been allowed to these teachers have been cancelled or stopped by virtue of the order, which is impugned herein, the same shall be restored and the arrears to that effect shall be calculated and be paid to the*



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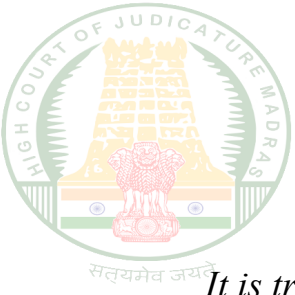
W.P.No.33995 of 2024

*teachers/appellants. To that extent, all these writ appeals are allowed. No costs. Connected miscellaneous petitions are closed.”*

7. In similar matter in W.A(MD).No.1124 of 2023 the Division Bench of this Hon'ble Court by order dated 24.07.2023, the Hon'ble Court has held that:-

*“2. The application for incentive was rejected only on the ground that the first respondent had not obtained prior permission of the authorities for undergoing higher education. Therefore, the learned Single Judge of this Court, allowed the Writ Petition, following the view taken by this Court by another Judge of this Court in J.Tamilrajan .vs. Department of School Education and others passed in W.P(MD)No.4019 of 2018. It is now admitted before this Court the same view of this Court was affirmed in W.A(MD)No.813 of 2021 in the case of the Director of School Education, DPI Campus, College Road, Chennai -6 .vs. G.Anandhi, dated 16.4.2021.*

*3. This Court find that the issue is no-more resintegra in view of the several judgments on this issue holding that the claim of teachers for incentive increment cannot be rejected on the ground that the concerned teacher had not obtained prior permission of the authorities for undergoing higher education. Since the issue has been settled by precedents, this Court is unable to countenance the arguments advanced by the learned counsel for the appellants.*



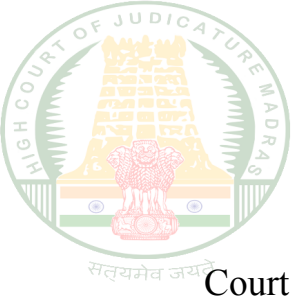
W.P.No.33995 of 2024

*It is true that there are several Government Order which have insisted the requirement of permission of the educational authorities for a teacher to undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher qualification is to encourage the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service will have to obtain prior permission as per the Government Orders. Further it is to be noted that acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity and that will not entitle the respondents to reject the benefit to the teachers.*

*4. Considering the overall policy of the Government, there is no reason to take a different view as expressed by the learned Single Judge. The decision relied upon by the learned Single Judge in the subject-matter in issue has been subsequently affirmed by the learned Division Bench of this Court. Hence this Court finds no merit in the Writ Appeal and the same is liable to be dismissed.*

*5. Accordingly, the Writ Appeal stands dismissed. No costs. The appellants are directed to comply with the direction of the learned Single Judge within a period of twelve weeks from the date of receipt of a copy of this judgment. Consequently connected Miscellaneous Petition is dismissed.”*

*8. In view of the aforesaid decision as well as various decisions rendered by the Hon'ble Apex Court and Hon'ble Division Bench, this*



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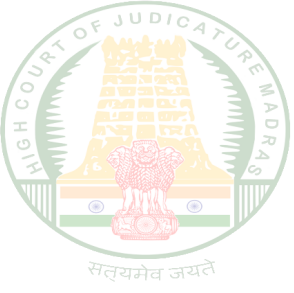
Court is of the view that the petitioners is entitled for incentive increment who had acquired M.Phil degree and the same to be paid. It is also to be noted that the incentive increment cannot be rejected on the ground that they have not obtained prior permission of the authorities for undergoing higher education and also regarding the M.Phil degree through distance mode / part time mode is not eligible for incentive increment. Further, the fourth respondent till date has not made any recovery and hence no other issue to the effect regarding the eligibility. Hence, the petitioner is eligible for incentive from the date of 18.01.2013.

9. Accordingly, this writ petition is disposed of on the above terms.

No costs. Consequently, the connected writ miscellaneous petitions are closed.

**30.01.2025**  
**(1/3)**

Index:Yes/No  
Speaking order/Non-speaking order  
rna



W.P.No.33995 of 2024

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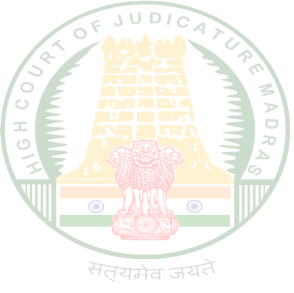
**To**

- 1.The Director of School Education (Service Division)  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 2.Financial Advisor & The Principal Accounts Officer,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.
- 4.The Headmaster,  
Government Higher Secondary School,  
Nellorepettai, Gudiyatham,  
Vellore District – 632 602.

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**V.BHAVANI SUBBAROYAN,J.**

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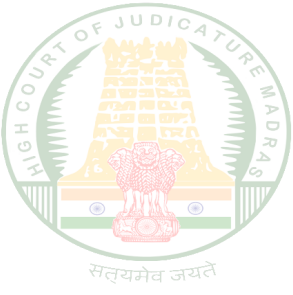
W.P.No.33995 of 2024

**W.P.No.33995 of 2024**  
**and W.M.P.Nos.36807 & 36808 of 2024**

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**30.01.2025**  
**(1/3)**





W.P.No.253 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 30.01.2025

CORAM:

**THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

**W.P.No.253 of 2025**  
**and W.M.P.No.288 of 2025**

G.Rajasekar

... Petitioner

-VS-

1.The Director of School Education (Personnel)  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.

2.The Divisional Accounts Officer (Audit),  
School Education Department,  
LLA Building 3<sup>rd</sup> Floor,  
Big Bazaar Street, Town Hall,  
Coimbatore 641 001.

3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.

4.The Headmaster,  
Government Municipal Higher Secondary School,  
Gudiyatham,  
Vellore District – 632 602.

... Respondents



W.P.No.253 of 2025

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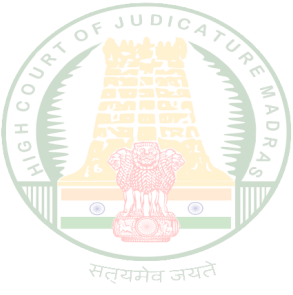
**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.2915/E4/2019, dated 10.01.2020 raising audit objection to the grant of incentive to the petitioner who is working as P.G Assistant in the Government Municipal Higher Secondary School, Gudiyatham, Vellore, 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 14.07.2018 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

For Petitioner : Ms.C.Uma

For Respondents : Mrs.S.Mythreye Chandru,  
1 to 3 Special Government Pleader  
(Education)

For Respondent 4 : No Appearance

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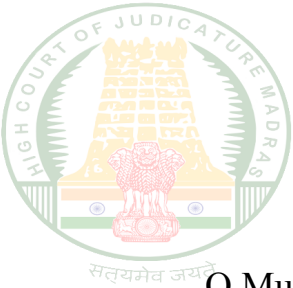
W.P.No.253 of 2025

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**ORDER**

This petition is filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.2915/E4/2019, dated 10.01.2020 raising audit objection to the grant of incentive to the petitioner who is working as P.G Assistant in the Government Municipal Higher Secondary School, Gudiyatham, Vellore, 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 14.07.2018 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

2. The case of the petitioner is that, he was appointed as a P.G. Assistant in Government Municipal Higher Secondary School, Gudiyattam, Vellore District on 04.12.2013. The petitioner was granted permission by the first respondent to pursue M.Phil degree and completed M.Phil in the year 2018. For the same the fourth respondent sanctioned salary increment in his proceedings



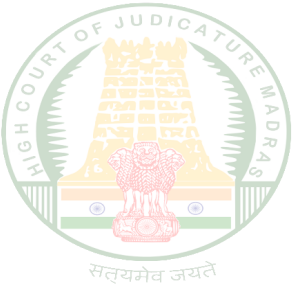
W.P.No.253 of 2025

O.Mu.No.053299/W2/E2/2017, dated 31.07.2017. Subsequently, second

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incentive for M.Phil degree was given to the petitioner with effect from 14.07.2018. The second respondent issued proceedings vide Ref.No.Na.Ka.No.2915/E14/2019, dated 10.01.2020 raising audit objections for the grant of incentive for M.Phil degree which was obtained through part time mode. Further the audit department directed the fourth respondent to compute the loss suffered by the Government for the grant of salary incentive to the petitioner and ordered to recover the said loss from the salary of the petitioner. Challenging the same the petitioner came up with the present writ petition.

3. The learned counsel for the petitioner submits that the Alagappa University, Karaikudi is State University Accredited with A grade by NAAC and duly recognized by UGC. Further, the learned counsel for the petitioner relied upon the Judgment of this Court in supporting their contentions in W.A.No.2328 of 2018, wherein the Division Bench allowed writ appeal not to cancel or stop the increment already given. The petitioners are entitled for the said incentive and prayed to allow the writ petition.



W.P.No.253 of 2025

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4. The learned Special Government Pleader contends that the Internal audit wing of the school education department took the view that the Government Letter No.268/Higher Education (K2) Department dated 29.08.2006 and GO No.91 Higher Education (K2) Department dated 03.04.2009 and the proceedings of the Director of School Education in reference No.Na.Ka.No.081477/KE/2014 dated 27.10.2014 from the academic year 2007-08 the degrees by Correspondence / Distance Education Mode / Open University / Part time are ineligible for appointment in Government service. Hence the Government of Tamil Nadu has not granted permission to obtain the M.Phil / Ph.D degree in correspondence / Part Time mode and having obtained the higher education degree through unrecognised mode the petitioner's incentive increments from 14.07.2018 is withdrawn. In this case, the petitioner has obtained the M.Phil which cannot be accepted as an appropriate degree and prayed for dismissal of the writ petition.

5. The learned counsel for the respondents also would contend that the petitioner cannot ask for quashing the impugned order on the basis of



W.P.No.253 of 2025

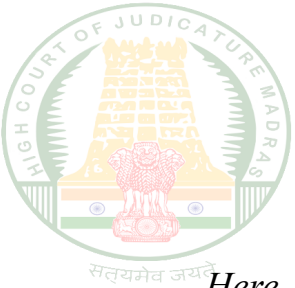
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Government G.O.(1D) No.18 dated 18.01.2013 the petitioners should not be entitled for even a grade for appearing in the said courses, but only from the date of the G.O passed in the year 2013 that is 18.01.2013 onwards. Further, it was submitted by the respondent's counsel that the authorities have taken the matter up to Supreme Court the Hon'ble Apex Court in SLP and that SLP is dismissed.

6. Recording the W.A.No.2328 of 2018 batch wherein the Hon'ble Division Bench held which 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.*

*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.*

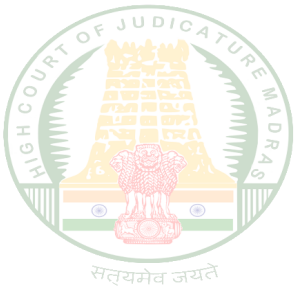


W.P.No.253 of 2025

*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.*

*35. In the result, the following orders are passed in these writ appeals:*

- That the impugned order passed by the writ Court dated 06.09.2018 is set aside. As a sequel, the impugned order that was challenged before the Writ Court in the respective petitions is also set aside to the extent that those teachers who had studied in the Vinayaka Mission's University during the relevant point of time i.e., 2007 to 2009 since had acquired the qualification during the period which the University also enjoyed the approval or recognition from the DEC, IGNO, the said objection raised by the audit Department would not be sustained. Therefore, on that ground, the incentive increment already allowed to these teachers need not be disturbed. If the increment already been allowed to these teachers have been cancelled or stopped by virtue of the order, which is impugned herein, the same shall be restored and the arrears to that effect shall be calculated and be paid to the teachers/appellants. To that extent, all these writ appeals are*



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W.P.No.253 of 2025

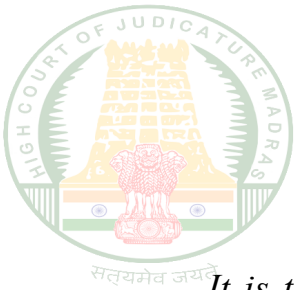
*allowed. No costs. Connected miscellaneous petitions are closed.”*

7. In similar matter in W.A(MD).No.1124 of 2023 the Division Bench of this Hon'ble Court by order dated 24.07.2023, the Hon'ble Court has held that:-

*“2. The application for incentive was rejected only on the ground that the first respondent had not obtained prior permission of the authorities for undergoing higher education. Therefore, the learned Single Judge of this Court, allowed the Writ Petition, following the view taken by this Court by another Judge of this Court in J.Tamilrajan .vs. Department of School Education and others passed in W.P(MD)No.4019 of 2018. It is now admitted before this Court the same view of this Court was affirmed in W.A(MD)No.813 of 2021 in the case of the Director of School Education, DPI Campus, College Road, Chennai -6 .vs. G.Anandhi, dated 16.4.2021.*

*3. This Court find that the issue is no-more resintegra in view of the several judgments on this issue holding that the claim of teachers for incentive increment cannot be rejected on the ground that the concerned teacher had not obtained prior permission of the authorities for undergoing higher education. Since the issue has been settled by precedents, this Court is unable to countenance the arguments advanced by the learned counsel for the appellants.*



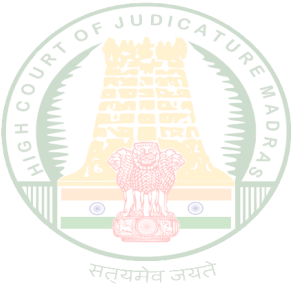


W.P.No.253 of 2025

*It is true that there are several Government Order which have insisted the requirement of permission of the educational authorities for a teacher to undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher qualification is to encourage the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service will have to obtain prior permission as per the Government Orders. Further it is to be noted that acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity and that will not entitle the respondents to reject the benefit to the teachers.*

*4. Considering the overall policy of the Government, there is no reason to take a different view as expressed by the learned Single Judge. The decision relied upon by the learned Single Judge in the subject-matter in issue has been subsequently affirmed by the learned Division Bench of this Court. Hence this Court finds no merit in the Writ Appeal and the same is liable to be dismissed.*

*5. Accordingly, the Writ Appeal stands dismissed. No costs. The appellants are directed to comply with the direction of the learned Single Judge within a period of twelve weeks from the date of receipt of a copy of this judgment. Consequently connected Miscellaneous Petition is dismissed.”*



W.P.No.253 of 2025

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8. In view of the aforesaid decision as well as various decisions rendered by the Hon'ble Apex Court and Hon'ble Division Bench, this Court is of the view that the petitioners is entitled for incentive increment who had acquired M.Phil degree and the same to be paid. It is also to be noted that the incentive increment cannot be rejected on the ground that they have not obtained prior permission of the authorities for undergoing higher education and also regarding the M.Phil degree through distance mode / part time mode is not eligible for incentive increment. Further, the fourth respondent till date has not made any recovery and hence no other issue to the effect regarding the eligibility. Hence, the petitioner is eligible for incentive from the date of 18.01.2013.

9. Accordingly, this writ petition is disposed of on the above terms. No costs. Consequently, the connected writ miscellaneous petitions are closed.

**30.01.2025**

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

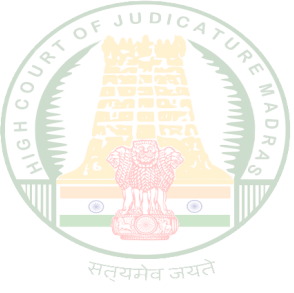


W.P.No.253 of 2025

**To**

- 1.The Director of School Education (Personnel)  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 2.The Divisional Accounts Officer (Audit),  
School Education Department,  
LLA Building 3<sup>rd</sup> Floor,  
Big Bazaar Street, Town Hall,  
Coimbatore 641 001.
- 3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.
- 4.The Headmaster,  
Government Municipal Higher Secondary School,  
Gudiyatham,  
Vellore District – 632 602.

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W.P.No.253 of 2025

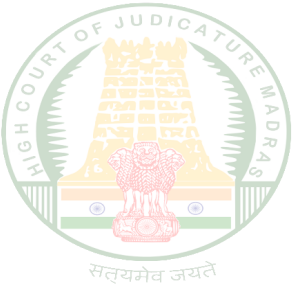
**V.BHAVANI SUBBAROYAN,J.**

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**W.P.No.253 of 2025**  
**and W.M.P.No.288 of 2025**

**30.01.2025**



W.P.No.34002 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: **30.01.2025**

CORAM:

**THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

**W.P.No.34002 of 2024**  
**and W.M.P.Nos.36815 & 36817 of 2024**

J.Sundaram

... Petitioner

-VS-

- 1.The State of Tamil Nadu,  
Rep by its Secretary to Government  
School Education Department,  
Fort St. George,  
Chennai 600 009.
- 2.The Director of School Education,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 3.The Joint Director of School Education (Personnel)  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 4.Financial Advisor & The Principal Accounts Officer,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 5.The Chief Educational Officer,



W.P.No.34002 of 2024

Vellore District,  
Vellore – 631 001.

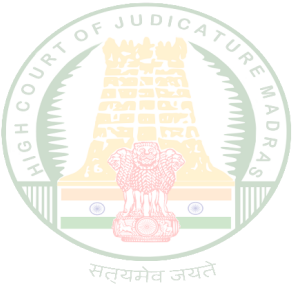
6.The Headmaster,  
Government Higher Secondary School,  
Agravaram, Gudiyatham,  
Vellore District – 632 604.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 4<sup>th</sup> respondent in proceedings having Ref.No.Na.Ka.No.053130/AaKaTha/2023 dated 23.02.2024 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Higher Secondary School, Agravaram, Gudiyatham Taluk, Vellore District, 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 13.01.2018 and quash the same as arbitrary and consequently direct the 2<sup>nd</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

For Petitioner : Ms.C.Uma

For Respondents : Mrs.S.Mythreye Chandru,



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W.P.No.34002 of 2024

1 to 5 Special Government Pleader  
(Education)

For Respondent 6 : No Appearance

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**ORDER**

This petition is filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records of the 4<sup>th</sup> respondent in proceedings having Ref.No.Na.Ka.No.053130/AaKaTha/2023 dated 23.02.2024 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Higher Secondary School, Agravaram, Gudiyatham Taluk, Vellore District, 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 13.01.2018 and quash the same as arbitrary and consequently direct the 2<sup>nd</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

2. The case of the petitioner is that, he was appointed as a B.T Assistant in Government High Secondary School, Asanambut, Vellore



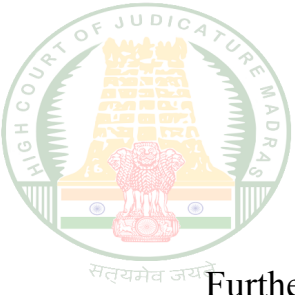
W.P.No.34002 of 2024

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District on 08.10.2007. The petitioner was granted permission by the first respondent to pursue M.Phil degree and completed M.Phil in the year 2018. For the same the fourth respondent sanctioned salary increment in his proceedings Na.Ka.No.70537/C2/E3/2015 dated 01.10.2025. Subsequently, second incentive for M.Phil degree was given to the petitioner with effect from 13.01.2018. The second respondent issued proceedings vide Ref.No.Na.Ka.No.053130/AaKaTha/2023 dated 23.02.2024 raising audit objections for the grant of incentive for M.Phil degree which was obtained through part time mode. Further the audit department directed the fourth respondent to compute the loss suffered by the Government for the grant of salary incentive to the petitioner and ordered to recover the said loss from the salary of the petitioner. Challenging the same the petitioner came up with the present writ petition.

3. The learned counsel for the petitioner submits that the Thiruvalluvar University, Vellore is established by Government of Tamil Nadu in 2002, recognized by UGC under 2(f) and 12(b) of UGC Act, hence, Thiruvalluvar University, Vellore is duly recognized by UGC.



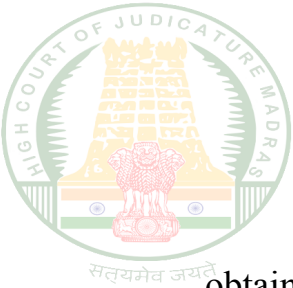


W.P.No.34002 of 2024

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Further, the learned counsel for the petitioner relied upon the Judgment of this Court in supporting their contentions in W.A.No.2328 of 2018, wherein the Division Bench allowed writ appeal not to cancel or stop the increment already given. The petitioners are entitled for the said incentive and prayed to allow the writ petition.

4. The learned Special Government Pleader contends that the Internal audit wing of the school education department took the view that the Government Letter No.268/Higher Education (K2) Department dated 29.08.2006 and GO No.91 Higher Education (K2) Department dated 03.04.2009 and the proceedings of the Director of School Education in reference No.Na.Ka.No.081477/KE/2014 dated 27.10.2014 from the academic year 2007-08 the degrees by Correspondence / Distance Education Mode / Open University / Part time are ineligible for appointment in Government service. Hence the Government of Tamil Nadu has not granted permission to obtain the M.Phil / Ph.D degree in correspondence / Part Time mode and having obtained the higher education degree through unrecognised mode the petitioner's incentive increments from 13.01.2018 is withdrawn. In this case, the petitioner has



W.P.No.34002 of 2024

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obtained the M.Phil which cannot be accepted as an appropriate degree and prayed for dismissal of the writ petition.

5. The learned counsel for the respondents would contend that the petitioner also cannot ask for quashing the impugned order on the basis of Government G.O.(1D) No.18 dated 18.01.2013 the petitioners should not be entitled to even a grade for appearing in the said courses, but only from the date of the G.O passed in the year 2013 that is 18.01.2013 onwards. Further, it was submitted by the respondent's counsel that the authorities have taken the matter up to Supreme Court in SLP and that SLP is dismissed.

6. Recording the W.A.No.2328 of 2018 batch wherein the Hon'ble Division Bench held which 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*



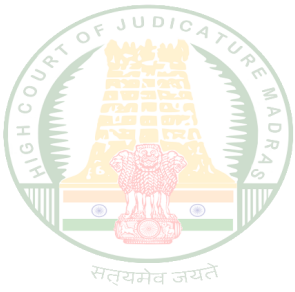
W.P.No.34002 of 2024

*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.*

*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.*

*35. In the result, the following orders are passed in these writ appeals:*

- That the impugned order passed by the writ Court dated 06.09.2018 is set aside. As a sequel, the impugned order that was challenged before the Writ Court in the respective petitions is also set aside to the extent that those teachers who had studied in the Vinayaka Mission's University during the relevant point of time i.e., 2007 to 2009 since had acquired the qualification during the period which the University also enjoyed the approval or recognition from the DEC, IGNO, the said objection raised by the*



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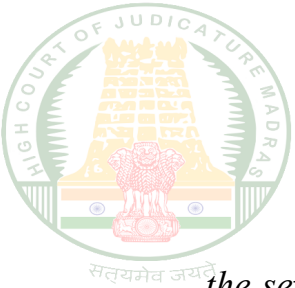
W.P.No.34002 of 2024

*audit Department would not be sustained. Therefore, on that ground, the incentive increment already allowed to these teachers need not be disturbed. If the increment already been allowed to these teachers have been cancelled or stopped by virtue of the order, which is impugned herein, the same shall be restored and the arrears to that effect shall be calculated and be paid to the teachers/appellants. To that extent, all these writ appeals are allowed. No costs. Connected miscellaneous petitions are closed.”*

7. In similar matter in W.A(MD).No.1124 of 2023 the Division Bench of this Hon'ble Court by order dated 24.07.2023, the Hon'ble Court has held that:-

*“2. The application for incentive was rejected only on the ground that the first respondent had not obtained prior permission of the authorities for undergoing higher education. Therefore, the learned Single Judge of this Court, allowed the Writ Petition, following the view taken by this Court by another Judge of this Court in J.Tamilrajan .vs. Department of School Education and others passed in W.P(MD)No.4019 of 2018. It is now admitted before this Court the same view of this Court was affirmed in W.A(MD)No.813 of 2021 in the case of the Director of School Education, DPI Campus, College Road, Chennai -6 .vs. G.Anandhi, dated 16.4.2021.*

*3. This Court find that the issue is no-more resintegra in view of*



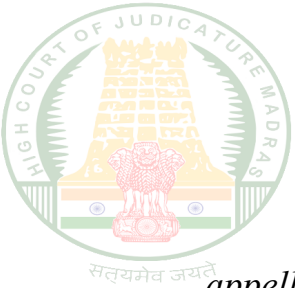
W.P.No.34002 of 2024

*the several judgments on this issue holding that the claim of teachers for incentive increment cannot be rejected on the ground that the concerned teacher had not obtained prior permission of the authorities for undergoing higher education. Since the issue has been settled by precedents, this Court is unable to countenance the arguments advanced by the learned counsel for the appellants.*

*It is true that there are several Government Order which have insisted the requirement of permission of the educational authorities for a teacher to undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher qualification is to encourage the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service will have to obtain prior permission as per the Government Orders. Further it is to be noted that acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity and that will not entitle the respondents to reject the benefit to the teachers.*

*4. Considering the overall policy of the Government, there is no reason to take a different view as expressed by the learned Single Judge. The decision relied upon by the learned Single Judge in the subject-matter in issue has been subsequently affirmed by the learned Division Bench of this Court. Hence this Court finds no merit in the Writ Appeal and the same is liable to be dismissed.*

*5. Accordingly, the Writ Appeal stands dismissed. No costs. The*

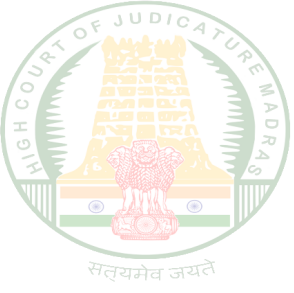


W.P.No.34002 of 2024

*appellants are directed to comply with the direction of the learned Single Judge within a period of twelve weeks from the date of receipt of a copy of this judgment. Consequently connected Miscellaneous Petition is dismissed.”*

8. In view of the aforesaid decision as well as various decisions rendered by the Hon'ble Apex Court and Hon'ble Division Bench, this Court is of the view that the petitioners is entitled for incentive increment who had acquired M.Phil degree and the same to be paid. It is also to be noted that the incentive increment cannot be rejected on the ground that they have not obtained prior permission of the authorities for undergoing higher education and also regarding the M.Phil degree through distance mode / part time mode is not eligible for incentive increment. Further, the fourth respondent till date has not made any recovery and hence no other issue to the effect regarding the eligibility. Hence, the petitioner is eligible for incentive from the date of 18.01.2013.

9. Accordingly, this writ petition is disposed of on the above terms. No costs. Consequently, the connected writ miscellaneous petitions are closed.



W.P.No.34002 of 2024

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30.01.2025  
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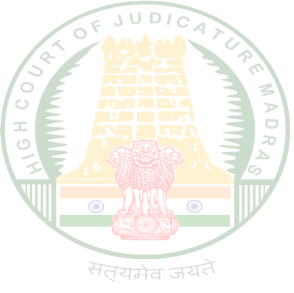
Index: Yes/No  
Speaking order/Non-speaking order  
rna

**To**

- 1.The Secretary to Government  
State of Tamil Nadu, School Education Department,  
Fort St. George, Chennai 600 009.
- 2.The Director of School Education, Directorate of School Education,  
DPI Campus, College Road, Chennai – 600 006.
- 3.The Joint Director of School Education (Personnel)  
Directorate of School Education,  
DPI Campus, College Road, Chennai – 600 006.
- 4.Financial Advisor & The Principal Accounts Officer,  
Directorate of School Education,  
DPI Campus, College Road, Chennai – 600 006.
- 5.The Chief Educational Officer,  
Vellore District, Vellore – 631 001.
- 6.The Headmaster,  
Government Higher Secondary School,  
Agravaram, Gudiyatham,  
Vellore District – 632 604.

**V.BHAVANI SUBBAROYAN,J.**

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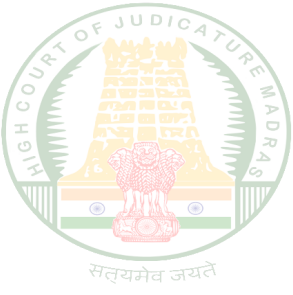
W.P.No.34002 of 2024

**W.P.No.34002 of 2024**  
**and W.M.P.Nos.36815 & 36817 of 2024**

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**30.01.2025**  
**(2/3)**





W.P.No.34004 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 30.01.2025

CORAM:

**THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

**W.P.No.34004 of 2024**  
**and W.M.P.Nos.36819 & 36822 of 2024**

G.Kasivishvanathan

... Petitioner

-VS-

1.The Director of School Education,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.

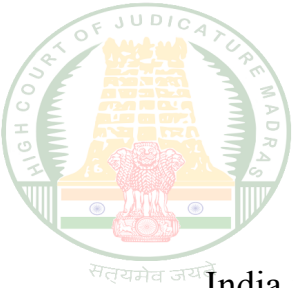
2.Financial Advisor & The Principal Accounts Officer,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.

3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.

4.The Headmaster,  
Government Higher Secondary School,  
Agravaram, Gudiyatham,  
Vellore District – 632 604.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of



W.P.No.34004 of 2024

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India to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.053130/AaKaTha/2023 dated 23.02.2024 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Municipal Higher Secondary School, Gudiyatham, Vellore, 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 24.01.2019 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

For Petitioner : Ms.C.Uma

For Respondents : Mrs.S.Mythreye Chandru,  
1 to 3 Special Government Pleader  
(Education)

For Respondent 4 : No Appearance

\*\*\*\*\*

### **ORDER**

This petition is filed seeking to issue a Writ of Certiorarified



W.P.No.34004 of 2024

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Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.053130/AaKaTha/2023 dated 23.02.2024 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Municipal Higher Secondary School, Gudiyatham, Vellore, 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 24.01.2019 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

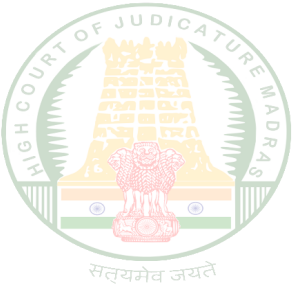
2. The case of the petitioner is that, he was appointed as a B.T Assistant in Government High School, Sevvathur, Vellore District on 22.12.2011. The petitioner was granted permission by the first respondent to pursue M.Phil degree and completed M.Phil in the year 2019. For the same the fourth respondent sanctioned salary increment in his proceedings Na.Ka.No.028468/C3/E3/2016 dated 03.08.2016. Subsequently, second incentive for M.Phil degree was given to the petitioner with effect from 24.01.2019. The second respondent issued



W.P.No.34004 of 2024

proceedings vide Ref.No.Na.Ka.No.053130/AaKaTha/2023 dated 23.02.2024 raising audit objections for the grant of incentive for M.Phil degree which was obtained through part time mode. Further the audit department directed the fourth respondent to compute the loss suffered by the Government for the grant of salary incentive to the petitioner and ordered to recover the said loss from the salary of the petitioner. Challenging the same the petitioner came up with the present writ petition.

3. The learned counsel for the petitioner submits that the Periyar University, Salem is established by Government of Tamil Nadu in 2002, recognized by UGC under 2(f) and 12(b) of UGC Act, hence, Periyar University, Salem is duly recognized by UGC. Further, the learned counsel for the petitioner relied upon the Judgment of this Court in supporting their contentions in W.A.No.2328 of 2018, wherein the Division Bench allowed writ appeal not to cancel or stop the increment already given. The petitioners are entitled for the said incentive and prayed to allow the writ petition.

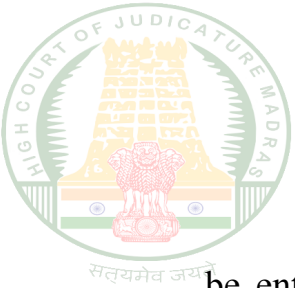


W.P.No.34004 of 2024

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4. The learned Special Government Pleader contends that the Internal audit wing of the school education department took the view that the Government Letter No.268/Higher Education (K2) Department dated 29.08.2006 and GO No.91 Higher Education (K2) Department dated 03.04.2009 and the proceedings of the Director of School Education in reference No.Na.Ka.No.081477/KE/2014 dated 27.10.2014 from the academic year 2007-08 the degrees by Correspondence / Distance Education Mode / Open University / Part time are ineligible for appointment in Government service. Hence the Government of Tamil Nadu has not granted permission to obtain the M.Phil / Ph.D degree in correspondence / Part Time mode and having obtained the higher education degree through unrecognised mode the petitioner's incentive increments from 24.01.2019 is withdrawn. In this case, the petitioner has obtained the M.Phil which cannot be accepted as an appropriate degree and prayed for dismissal of the writ petition.

5. The learned counsel for the respondents would contends that the petitioner also cannot ask for quashing the impugned order on the basis of Government G.O.(1D) No.18 dated 18.01.2013 the petitioners should not



W.P.No.34004 of 2024

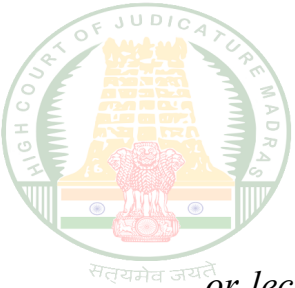
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be entitled to even a grade for appearing in the said courses, but only from the date of the G.O passed in the year 2013 that is 18.01.2013 onwards. Further, it was submitted by the respondent's counsel that the authorities have taken the matter up to Supreme Court in SLP and that SLP is dismissed.

6. Recording the W.A.No.2328 of 2018 batch wherein the Hon'ble Division Bench held which 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.*

*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*

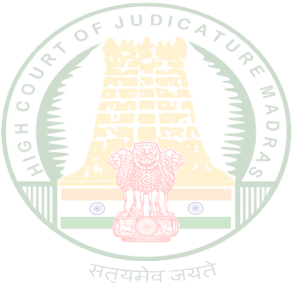


W.P.No.34004 of 2024

*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.*

*35. In the result, the following orders are passed in these writ appeals:*

- That the impugned order passed by the writ Court dated 06.09.2018 is set aside. As a sequel, the impugned order that was challenged before the Writ Court in the respective petitions is also set aside to the extent that those teachers who had studied in the Vinayaka Mission's University during the relevant point of time i.e., 2007 to 2009 since had acquired the qualification during the period which the University also enjoyed the approval or recognition from the DEC, IGNO, the said objection raised by the audit Department would not be sustained. Therefore, on that ground, the incentive increment already allowed to these teachers need not be disturbed. If the increment already been allowed to these teachers have been cancelled or stopped by virtue of the order, which is impugned herein, the same shall be restored and the arrears to that effect shall be calculated and be paid to the teachers/appellants. To that extent, all these writ appeals are allowed. No costs. Connected miscellaneous petitions are*



W.P.No.34004 of 2024

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*closed.”*

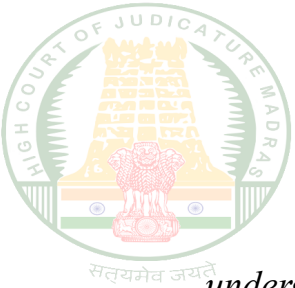
7. In similar matter in W.A(MD).No.1124 of 2023 the Division Bench of this Hon'ble Court by order dated 24.07.2023, the Hon'ble Court has held that:-

*“2. The application for incentive was rejected only on the ground that the first respondent had not obtained prior permission of the authorities for undergoing higher education. Therefore, the learned Single Judge of this Court, allowed the Writ Petition, following the view taken by this Court by another Judge of this Court in J.Tamilrajan .vs. Department of School Education and others passed in W.P(MD)No.4019 of 2018. It is now admitted before this Court the same view of this Court was affirmed in W.A(MD)No.813 of 2021 in the case of the Director of School Education, DPI Campus, College Road, Chennai -6 .vs. G.Anandhi, dated 16.4.2021.*

*3. This Court find that the issue is no-more resintegra in view of the several judgments on this issue holding that the claim of teachers for incentive increment cannot be rejected on the ground that the concerned teacher had not obtained prior permission of the authorities for undergoing higher education. Since the issue has been settled by precedents, this Court is unable to countenance the arguments advanced by the learned counsel for the appellants.*

*It is true that there are several Government Order which have insisted the requirement of permission of the educational authorities for a teacher to*





W.P.No.34004 of 2024

*undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher qualification is to encourage the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service will have to obtain prior permission as per the Government Orders. Further it is to be noted that acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity and that will not entitle the respondents to reject the benefit to the teachers.*

*4. Considering the overall policy of the Government, there is no reason to take a different view as expressed by the learned Single Judge. The decision relied upon by the learned Single Judge in the subject-matter in issue has been subsequently affirmed by the learned Division Bench of this Court. Hence this Court finds no merit in the Writ Appeal and the same is liable to be dismissed.*

*5. Accordingly, the Writ Appeal stands dismissed. No costs. The appellants are directed to comply with the direction of the learned Single Judge within a period of twelve weeks from the date of receipt of a copy of this judgment. Consequently connected Miscellaneous Petition is dismissed.”*

8. In view of the aforesaid decision as well as various decisions rendered by the Hon'ble Apex Court and Hon'ble Division Bench, this Court is of the view that the petitioners is entitled for incentive increment



W.P.No.34004 of 2024

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who had acquired M.Phil degree and the same to be paid. It is also to be noted that the incentive increment cannot be rejected on the ground that they have not obtained prior permission of the authorities for undergoing higher education and also regarding the M.Phil degree through distance mode / part time mode is not eligible for incentive increment. Further, the fourth respondent till date has not made any recovery and hence no other issue to the effect regarding the eligibility. Hence, the petitioner is eligible for incentive from the date of 18.01.2013.

9. Accordingly, this writ petition is disposed of on the above terms.

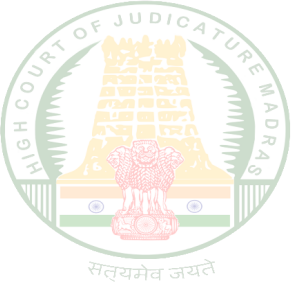
No costs. Consequently, the connected writ miscellaneous petitions are closed.

**30.01.2025**  
**(3/3)**

Index:Yes/No  
Speaking order/Non-speaking order  
rna

**To**

10/12



W.P.No.34004 of 2024

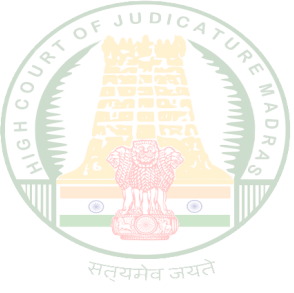
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- 1.The Director of School Education,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 2.Financial Advisor & The Principal Accounts Officer,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.
- 4.The Headmaster,  
Government Higher Secondary School,  
Agravaram, Gudiyatham,  
Vellore District – 632 604.

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**V.BHAVANI SUBBAROYAN,J.**

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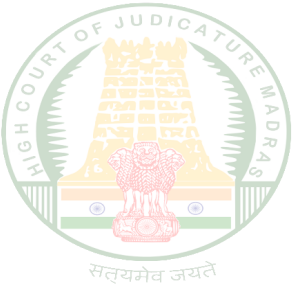


W.P.No.34004 of 2024

**W.P.No.34004 of 2024**  
**and W.M.P.Nos.36819 & 36822 of 2024**

**30.01.2025**  
**(3/3)**

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W.P.No.37316 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: **30.01.2025**

CORAM:

**THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

**W.P.No.37316 of 2024**  
**and W.M.P.No.40332 of 2024**

A.Palanivel

... Petitioner

-VS-

- 1.The Director of School Education (Service Division),  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 2.The Divisional Accounts Office (Audit),  
School Education Department,  
LLA Building 3<sup>rd</sup> Floor,  
Big Bazaar Street, Town Hall,  
Coimbatore – 641 001.
- 3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.
- 4.The Headmaster,  
Government High School,  
Kallur, Gudiyattam Taluk,  
Vellore District – 632 601.

... Respondents



W.P.No.37316 of 2024

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**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.654/E14/2020, dated 03.03.2020 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Higher Secondary School, Kallur, Vellore District, 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 31.03.2018 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

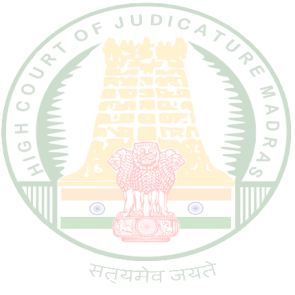
For Petitioner : Ms.C.Uma

For Respondents : Mrs.S.Mythreye Chandru,  
1 to 3 Special Government Pleader  
(Education)

For Respondent 4 : No Appearance

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**ORDER**

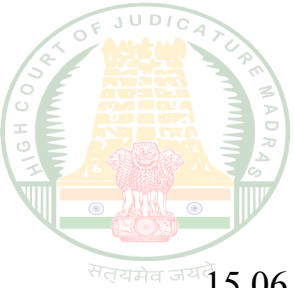


W.P.No.37316 of 2024

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This petition is filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.654/E14/2020, dated 03.03.2020 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Higher Secondary School, Kallur, Vellore District, 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 31.03.2018 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

2. The case of the petitioner is that, he was appointed as a B.T. Assistant in Panchayat Union Middle School, Kallur, Gudiyatham, Vellore District and the school was upgraded to Government High School, Kallur on 01.06.2006. The petitioner was granted permission by the first respondent to pursue M.Phil degree and completed M.Phil in the year 2018. For the same the fourth respondent sanctioned salary increment in his proceedings Na.Ka.No.036491/C3/E3/2016 dated



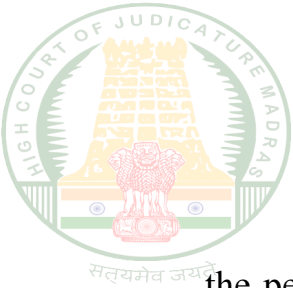
W.P.No.37316 of 2024

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15.06.2016. Subsequently, second incentive for M.Phil degree was given to the petitioner with effect from 31.03.2018. The second respondent issued proceedings vide Ref.No.Na.Ka.No.654/E14/2020 dated 03.03.2020 raising audit objections for the grant of incentive for M.Phil degree which was obtained through part time mode. Further the audit department directed the fourth respondent to compute the loss suffered by the Government for the grant of salary incentive to the petitioner and ordered to recover the said loss from the salary of the petitioner. Challenging the same the petitioner came up with the present writ petition.

3. The learned counsel for the petitioner submits that the Sri Chandrasekharaendra Saraswathi Viswa Mahavidyalaya University, Kancheepuram was declared as Deemed to be University under Section 3 of University Grant Commission, 1956 by Ministry of Human Resource Development on the advice of University Grants Commission as per the Notification No.F.9-9/92-U3 dated 26.05.1993 by Government of India, hence Sri Chandrasekharaendra Saraswathi Viswa Mahavidyalaya University is duly recognized by UGC. Further, the learned counsel for



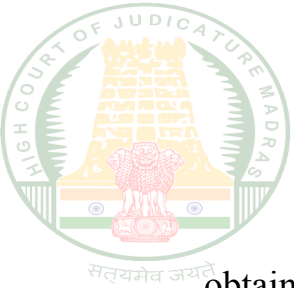


W.P.No.37316 of 2024

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the petitioner relied upon the Judgment of this Court in supporting their contentions in W.A.No.2328 of 2018, wherein the Division Bench allowed writ appeal not to cancel or stop the increment already given. The petitioners are entitled for the said incentive and prayed to allow the writ petition.

4. The learned Special Government Pleader contends that the Internal audit wing of the school education department took the view that the Government Letter No.268/Higher Education (k2) Department dated 29.08.2006 and GO No.91 Higher Education (K2) Department dated 03.04.2009 and the proceedings of the Director of School Education in reference No.Na.Ka.No.081477/KE/2014 dated 27.10.2014 from the academic year 2007-08 the degrees by Correspondence / Distance Education Mode / Open University / Part time are ineligible for appointment in Government service. Hence the Government of Tamil Nadu has not granted permission to obtain the M.Phil / Ph.D degree in correspondence / Part Time mode and having obtained the higher education degree through unrecognised mode the petitioner's incentive increments from 31.03.2018 is withdrawn. In this case, the petitioner has



W.P.No.37316 of 2024

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obtained the M.Phil which cannot be accepted as an appropriate degree and prayed for dismissal of the writ petition.

5. The learned counsel for the respondents would contend that the petitioner also cannot ask for quashing the impugned order on the basis of Government G.O.(1D) No.18 dated 18.01.2013 the petitioners should not be entitled to even a grade for appearing in the said courses, but only from the date of the G.O passed in the year 2013 that is 18.01.2013 onwards. Further, it was submitted by the respondent's counsel that the authorities have taken the matter up to Supreme Court in SLP and that SLP is dismissed.

6. Recording the W.A.No.2328 of 2018 batch wherein the Hon'ble Division Bench held which 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*



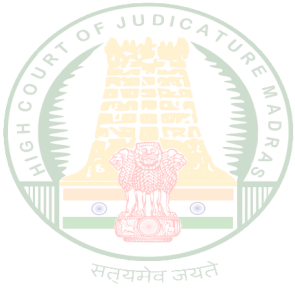
W.P.No.37316 of 2024

*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.*

*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.*

*35. In the result, the following orders are passed in these writ appeals:*

- That the impugned order passed by the writ Court dated 06.09.2018 is set aside. As a sequel, the impugned order that was challenged before the Writ Court in the respective petitions is also set aside to the extent that those teachers who had studied in the Vinayaka Mission's University during the relevant point of time i.e., 2007 to 2009 since had acquired the qualification during the period which the University also enjoyed the approval or recognition from the DEC, IGNO, the said objection raised by the*



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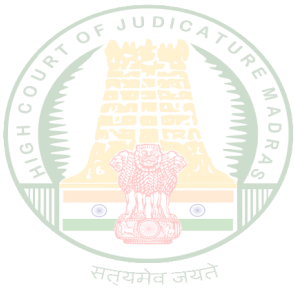


W.P.No.37316 of 2024

*audit Department would not be sustained. Therefore, on that ground, the incentive increment already allowed to these teachers need not be disturbed. If the increment already been allowed to these teachers have been cancelled or stopped by virtue of the order, which is impugned herein, the same shall be restored and the arrears to that effect shall be calculated and be paid to the teachers/appellants. To that extent, all these writ appeals are allowed. No costs. Connected miscellaneous petitions are closed.”*

7. In similar matter in W.A(MD).No.1124 of 2023 the Division Bench of this Hon'ble Court by order dated 24.07.2023, the Hon'ble Court has held that:-

*“2. The application for incentive was rejected only on the ground that the first respondent had not obtained prior permission of the authorities for undergoing higher education. Therefore, the learned Single Judge of this Court, allowed the Writ Petition, following the view taken by this Court by another Judge of this Court in J.Tamilrajan .vs. Department of School Education and others passed in W.P(MD)No.4019 of 2018. It is now admitted before this Court the same view of this Court was affirmed in W.A(MD)No.813 of 2021 in the case of the Director of School Education, DPI Campus, College Road, Chennai -6 .vs. G.Anandhi, dated 16.4.2021.*



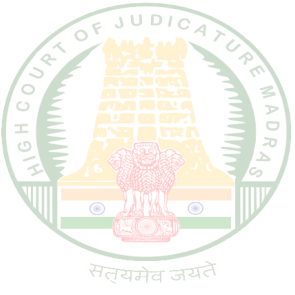
W.P.No.37316 of 2024

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3. *This Court find that the issue is no-more resintegra in view of the several judgments on this issue holding that the claim of teachers for incentive increment cannot be rejected on the ground that the concerned teacher had not obtained prior permission of the authorities for undergoing higher education. Since the issue has been settled by precedents, this Court is unable to countenance the arguments advanced by the learned counsel for the appellants.*

*It is true that there are several Government Order which have insisted the requirement of permission of the educational authorities for a teacher to undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher qualification is to encourage the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service will have to obtain prior permission as per the Government Orders. Further it is to be noted that acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity and that will not entitle the respondents to reject the benefit to the teachers.*

4. *Considering the overall policy of the Government, there is no reason to take a different view as expressed by the learned Single Judge. The decision relied upon by the learned Single Judge in the subject-matter in issue has been subsequently affirmed by the learned Division Bench of this Court. Hence this Court finds no merit in the Writ Appeal and the same is liable to be dismissed.*



W.P.No.37316 of 2024

5. Accordingly, the Writ Appeal stands dismissed. No costs. The appellants are directed to comply with the direction of the learned Single Judge within a period of twelve weeks from the date of receipt of a copy of this judgment. Consequently connected Miscellaneous Petition is dismissed.”

8. In view of the aforesaid decision as well as various decisions rendered by the Hon'ble Apex Court and Hon'ble Division Bench, this Court is of the view that the petitioners is entitled for incentive increment who had acquired M.Phil degree and the same to be paid. It is also to be noted that the incentive increment cannot be rejected on the ground that they have not obtained prior permission of the authorities for undergoing higher education and also regarding the M.Phil degree through distance mode / part time mode is not eligible for incentive increment. Further, the fourth respondent till date has not made any recovery and hence no other issue to the effect regarding the eligibility. Hence, the petitioner is eligible for incentive from the date of 18.01.2013.

9. Accordingly, this writ petition is disposed of on the above terms.



W.P.No.37316 of 2024

No costs. Consequently, the connected writ miscellaneous petitions are closed.

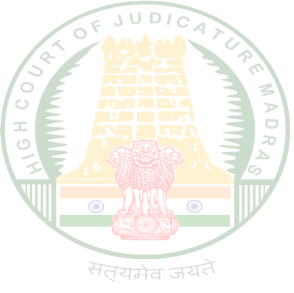
30.01.2025  
(1/2)

Index: Yes/No  
Speaking order/Non-speaking order  
rna

**To**

- 1.The Director of School Education (Service Division),  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 2.The Divisional Accounts Office (Audit),  
School Education Department,  
LLA Building 3<sup>rd</sup> Floor,  
Big Bazaar Street, Town Hall,  
Coimbatore – 641 001.
- 3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.
- 4.The Headmaster,  
Government High School,  
Kallur, Gudiyattam Taluk,  
Vellore District – 632 601.

**V.BHAVANI SUBBAROYAN,J.**



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W.P.No.37316 of 2024

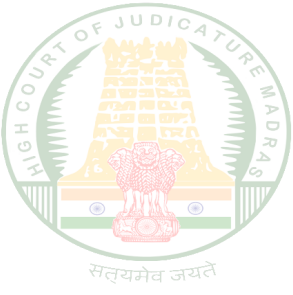
rna

**W.P.No.37316 of 2024**  
**and W.M.P.No.40332 of 2024**

WWW.Padasalai.Net

**30.01.2025**  
**(1/2)**





W.P.No.37320 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: **30.01.2025**

CORAM:

**THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

**W.P.No.37320 of 2024**  
**and W.M.P.No.40339 of 2024**

D.Krishnan

... Petitioner

-VS-

- 1.The Director of School Education (Service Division),  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 2.The Divisional Accounts Office (Audit),  
School Education Department,  
LLA Building 3<sup>rd</sup> Floor,  
Big Bazaar Street, Town Hall,  
Coimbatore – 641 001.
- 3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.
- 4.The Headmaster,  
Government Higher Secondary School,  
Cholavaram,  
Vellore District – 632 113.

... Respondents



W.P.No.37320 of 2024

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**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.1634/E14/2019, dated 05.09.2019 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Higher Secondary School, Cholavaram, Vellore District, 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 01.09.2017 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

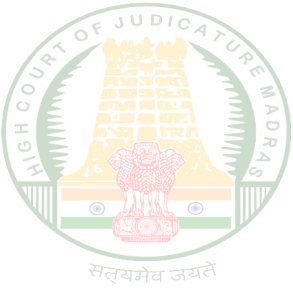
For Petitioner : Ms.C.Uma

For Respondents : Mrs.S.Mythreye Chandru,  
1 to 3 Special Government Pleader  
(Education)

For Respondent 4 : No Appearance

\*\*\*\*\*

**ORDER**

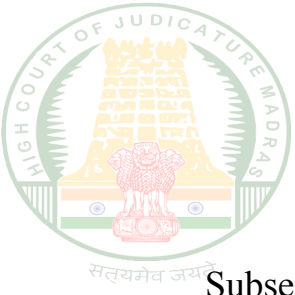


W.P.No.37320 of 2024

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This petition is filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.1634/E14/2019, dated 05.09.2019 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Higher Secondary School, Cholavaram, Vellore District, 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 01.09.2017 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

2. The case of the petitioner is that, he was appointed as a B.T. Assistant in Government Higher Secondary School, Cholavaram, Vellore District on 31.03.2003. The petitioner was granted permission by the first respondent to pursue M.Phil degree and completed M.Phil in the year 2017. For the same the fourth respondent sanctioned salary increment in his proceedings Na.Ka.No.49732/E3/2015 dated 31.07.2015.



W.P.No.37320 of 2024

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Subsequently, second incentive for M.Phil degree was given to the petitioner with effect from 01.09.2017. The second respondent issued proceedings vide Ref.No.Na.Ka.No.1634/E14/2019 dated 05.09.2019 raising audit objections for the grant of incentive for M.Phil degree which was obtained through part time mode. Further the audit department directed the fourth respondent to compute the loss suffered by the Government for the grant of salary incentive to the petitioner and ordered to recover the said loss from the salary of the petitioner. Challenging the same the petitioner came up with the present writ petition.

3. The learned counsel for the petitioner submits that the Sri Chandrasekharaendra Saraswathi Viswa Mahavidyalaya University, Kancheepuram was declared as Deemed to be University under Section 3 of University Grant Commission, 1956 by Ministry of Human Resource Development on the advice of University Grants Commission as per the Notification No.F.9-9/92-U3 dated 26.05.1993 by Government of India, hence Sri Chandrasekharaendra Saraswathi Viswa Mahavidyalaya University is duly recognized by UGC. Further, the learned counsel for the petitioner relied upon the Judgment of this Court in supporting their



W.P.No.37320 of 2024

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contentions in W.A.No.2328 of 2018, wherein the Division Bench allowed writ appeal not to cancel or stop the increment already given. The petitioners are entitled for the said incentive and prayed to allow the writ petition.

4. The learned Special Government Pleader contends that the Internal audit wing of the school education department took the view that the Government Letter No.268/Higher Education (k2) Department dated 29.08.2006 and GO No.91 Higher Education (K2) Department dated 03.04.2009 and the proceedings of the Director of School Education in reference No.Na.Ka.No.081477/KE/2014 dated 27.10.2014 from the academic year 2007-08 the degrees by Correspondence / Distance Education Mode / Open University / Part time are ineligible for appointment in Government service. Hence the Government of Tamil Nadu has not granted permission to obtain the M.Phil / Ph.D degree in correspondence / Part Time mode and having obtained the higher education degree through unrecognised mode the petitioner's incentive increments from 01.09.2017 is withdrawn. In this case, the petitioner has obtained the M.Phil which cannot be accepted as an appropriate degree



W.P.No.37320 of 2024

and prayed for dismissal of the writ petition.

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5. The learned counsel for the respondents would contend that the petitioner also cannot ask for quashing the impugned order on the basis of Government G.O.(1D) No.18 dated 18.01.2013 the petitioners should not be entitled to even a grade for appearing in the said courses, but only from the date of the G.O passed in the year 2013 that is 18.01.2013 onwards. Further, it was submitted by the respondent's counsel that the authorities have taken the matter up to Supreme Court in SLP and that SLP is dismissed.

6. Recording the W.A.No.2328 of 2018 batch wherein the Hon'ble Division Bench held which 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*



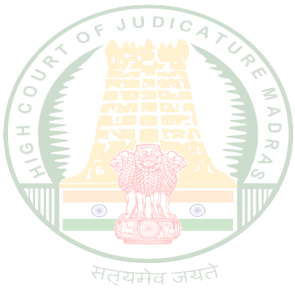
W.P.No.37320 of 2024

*that will stand in the way for extending the benefit of advance incentive increment to the teachers.*

*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.*

*35. In the result, the following orders are passed in these writ appeals:*

- That the impugned order passed by the writ Court dated 06.09.2018 is set aside. As a sequel, the impugned order that was challenged before the Writ Court in the respective petitions is also set aside to the extent that those teachers who had studied in the Vinayaka Mission's University during the relevant point of time i.e., 2007 to 2009 since had acquired the qualification during the period which the University also enjoyed the approval or recognition from the DEC, IGNO, the said objection raised by the audit Department would not be sustained. Therefore, on that ground, the incentive increment already allowed to these teachers*



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W.P.No.37320 of 2024

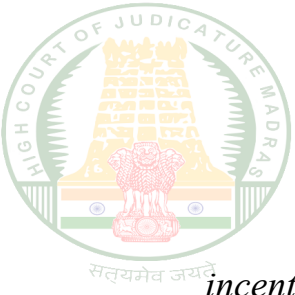
*need not be disturbed. If the increment already been allowed to these teachers have been cancelled or stopped by virtue of the order, which is impugned herein, the same shall be restored and the arrears to that effect shall be calculated and be paid to the teachers/appellants. To that extent, all these writ appeals are allowed. No costs. Connected miscellaneous petitions are closed.”*

7. In similar matter in W.A(MD).No.1124 of 2023 the Division Bench of this Hon'ble Court by order dated 24.07.2023, the Hon'ble Court has held that:-

*“2. The application for incentive was rejected only on the ground that the first respondent had not obtained prior permission of the authorities for undergoing higher education. Therefore, the learned Single Judge of this Court, allowed the Writ Petition, following the view taken by this Court by another Judge of this Court in J.Tamilrajan .vs. Department of School Education and others passed in W.P(MD)No.4019 of 2018. It is now admitted before this Court the same view of this Court was affirmed in W.A(MD)No.813 of 2021 in the case of the Director of School Education, DPI Campus, College Road, Chennai -6 .vs. G.Anandhi, dated 16.4.2021.*

*3. This Court find that the issue is no-more resintegra in view of the several judgments on this issue holding that the claim of teachers for*





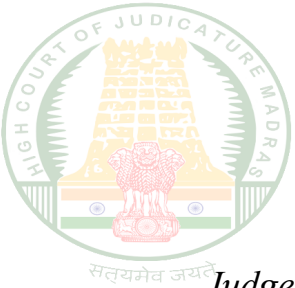
W.P.No.37320 of 2024

*incentive increment cannot be rejected on the ground that the concerned teacher had not obtained prior permission of the authorities for undergoing higher education. Since the issue has been settled by precedents, this Court is unable to countenance the arguments advanced by the learned counsel for the appellants.*

*It is true that there are several Government Order which have insisted the requirement of permission of the educational authorities for a teacher to undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher qualification is to encourage the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service will have to obtain prior permission as per the Government Orders. Further it is to be noted that acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity and that will not entitle the respondents to reject the benefit to the teachers.*

*4. Considering the overall policy of the Government, there is no reason to take a different view as expressed by the learned Single Judge. The decision relied upon by the learned Single Judge in the subject-matter in issue has been subsequently affirmed by the learned Division Bench of this Court. Hence this Court finds no merit in the Writ Appeal and the same is liable to be dismissed.*

*5. Accordingly, the Writ Appeal stands dismissed. No costs. The appellants are directed to comply with the direction of the learned Single*

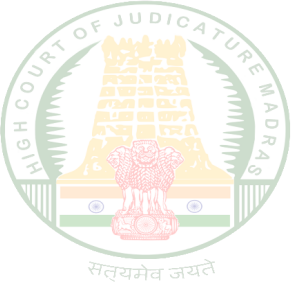


W.P.No.37320 of 2024

*Judge within a period of twelve weeks from the date of receipt of a copy of this judgment. Consequently connected Miscellaneous Petition is dismissed.”*

8. In view of the aforesaid decision as well as various decisions rendered by the Hon'ble Apex Court and Hon'ble Division Bench, this Court is of the view that the petitioners is entitled for incentive increment who had acquired M.Phil degree and the same to be paid. It is also to be noted that the incentive increment cannot be rejected on the ground that they have not obtained prior permission of the authorities for undergoing higher education and also regarding the M.Phil degree through distance mode / part time mode is not eligible for incentive increment. Further, the fourth respondent till date has not made any recovery and hence no other issue to the effect regarding the eligibility. Hence, the petitioner is eligible for incentive from the date of 18.01.2013.

9. Accordingly, this writ petition is disposed of on the above terms. No costs. Consequently, the connected writ miscellaneous petitions are closed.



W.P.No.37320 of 2024

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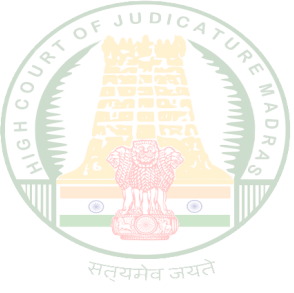
Index: Yes/No  
Speaking order/Non-speaking order  
rna

**To**

- 1.The Director of School Education (Service Division),  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 2.The Divisional Accounts Office (Audit),  
School Education Department,  
LLA Building 3<sup>rd</sup> Floor,  
Big Bazaar Street, Town Hall,  
Coimbatore – 641 001.
- 3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.
- 4.The Headmaster,  
Government Higher Secondary School,  
Cholavaram,  
Vellore District – 632 113.

**V.BHAVANI SUBBAROYAN,J.**

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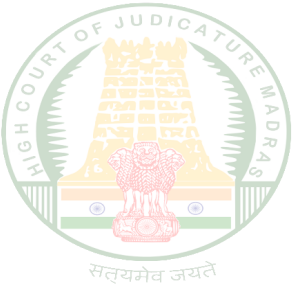


W.P.No.37320 of 2024

**W.P.No.37320 of 2024**  
**and W.M.P.No.40339 of 2024**

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30.01.2025  
(2/2)



W.P.No.38383 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: **30.01.2025**

CORAM:

**THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

**W.P.No.38383 of 2024**  
**and W.M.P.No.41567 of 2024**

D.Subagar

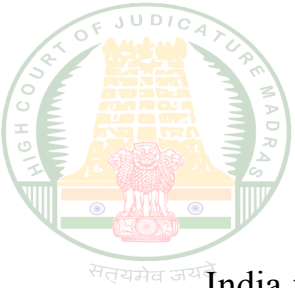
... Petitioner

-VS-

- 1.The Director of School Education (Personnel),  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 2.Financial Advisor & The Principal Accounts Officer,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.
- 4.The Headmaster,  
Government Higher Secondary School,  
Thattapparai, Gudiyatham Taluk,  
Vellore District – 635 601.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of



W.P.No.38383 of 2024

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India to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.053130/AaKaTha/2023 dated 16.05.2024 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Higher Secondary School, Thattapparai, Gudiyatham Taluk, Vellore District, for the M.Phil Degree obtained through distance mode and ordering recovery of the incentive granted to the petitioner from the salary of the petitioner from 18.01.2013 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

For Petitioner : Ms.C.Uma

For Respondents : Mrs.S.Mythreye Chandru,  
1 to 3 Special Government Pleader  
(Education)

For Respondent 4 : No Appearance

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### **ORDER**

This petition is filed seeking to issue a Writ of Certiorarified

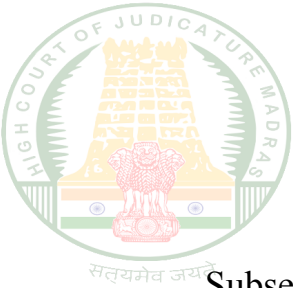


W.P.No.38383 of 2024

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Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.053130/AaKaTha/2023 dated 16.05.2024 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Higher Secondary School, Thattapparai, Gudiyatham Taluk, Vellore District, for the M.Phil Degree obtained through distance mode and ordering recovery of the incentive granted to the petitioner from the salary of the petitioner from 18.01.2013 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

2. The case of the petitioner is that, he was appointed as a B.T Assistant in Government High School, Jangalapuram, Thirupathur District, now he is working in Government Higher Secondary School, Thattapparai, Vellore District on 07.10.2005. The petitioner was granted permission by the first respondent to pursue M.Phil degree and completed M.Phil in the year 2010. For the same the fourth respondent sanctioned salary increment in his proceedings Na.Ka.No.55/2009 dated 30.03.2009.



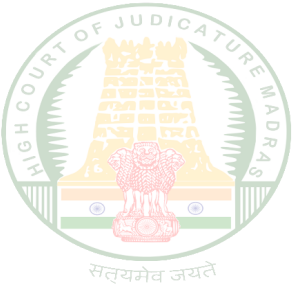
W.P.No.38383 of 2024

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Subsequently, second incentive for M.Phil degree was given to the petitioner with effect from 18.01.2013. The second respondent issued proceedings vide Ref.No.Na.Ka.No.053130/AaKaTha/2023 dated 16.05.2024 raising audit objections for the grant of incentive for M.Phil degree which was obtained through part time mode. Further the audit department directed the fourth respondent to compute the loss suffered by the Government for the grant of salary incentive to the petitioner and ordered to recover the said loss from the salary of the petitioner. Challenging the same the petitioner came up with the present writ petition.

3. The learned counsel for the petitioner submits that the Alagappa University, Karaikudi is State University Accredited with A grade by NAAC and duly recognized by UGC. Further, the learned counsel for the petitioner relied upon the Judgment of this Court in supporting their contentions in W.A.No.2328 of 2018, wherein the Division Bench allowed writ appeal not to cancel or stop the increment already given. The petitioners are entitled for the said incentive and prayed to allow the writ petition.





W.P.No.38383 of 2024

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4. The learned Special Government Pleader contends that the Internal audit wing of the school education department took the view that the Government Letter No.268/Higher Education (K2) Department dated 29.08.2006 and GO No.91 Higher Education (K2) Department dated 03.04.2009 and the proceedings of the Director of School Education in reference No.Na.Ka.No.081477/KE/2014 dated 27.10.2014 from the academic year 2007-08 the degrees by Correspondence / Distance Education Mode / Open University / Part time are ineligible for appointment in Government service. Hence the Government of Tamil Nadu has not granted permission to obtain the M.Phil / Ph.D degree in correspondence / Part Time mode and having obtained the higher education degree through unrecognised mode the petitioner's incentive increments from 18.01.2013 is withdrawn. In this case, the petitioner has obtained the M.Phil which cannot be accepted as an appropriate degree and prayed for dismissal of the writ petition.

5. The learned counsel for the respondents would contend that the petitioner also cannot ask for quashing the impugned order on the basis of



W.P.No.38383 of 2024

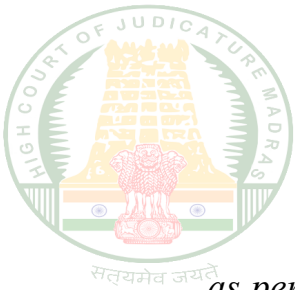
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Government G.O.(1D) No.18 dated 18.01.2013 the petitioners should not be entitled to even a grade for appearing in the said courses, but only from the date of the G.O passed in the year 2013 that is 18.01.2013 onwards. Further, it was submitted by the respondent's counsel that the authorities have taken the matter up to Supreme Court in SLP and that SLP is dismissed.

6. Recording the W.A.No.2328 of 2018 batch wherein the Hon'ble Division Bench held which 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.*

*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,*

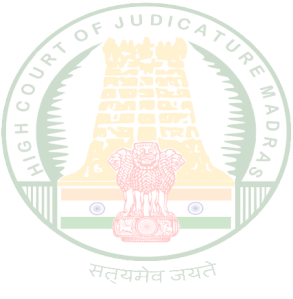


W.P.No.38383 of 2024

*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.*

*35. In the result, the following orders are passed in these writ appeals:*

- That the impugned order passed by the writ Court dated 06.09.2018 is set aside. As a sequel, the impugned order that was challenged before the Writ Court in the respective petitions is also set aside to the extent that those teachers who had studied in the Vinayaka Mission's University during the relevant point of time i.e., 2007 to 2009 since had acquired the qualification during the period which the University also enjoyed the approval or recognition from the DEC, IGNO, the said objection raised by the audit Department would not be sustained. Therefore, on that ground, the incentive increment already allowed to these teachers need not be disturbed. If the increment already been allowed to these teachers have been cancelled or stopped by virtue of the order, which is impugned herein, the same shall be restored and the arrears to that effect shall be calculated and be paid to the teachers/appellants. To that extent, all these writ appeals are*



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W.P.No.38383 of 2024

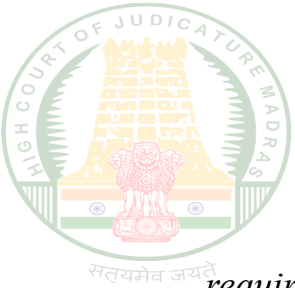
*allowed. No costs. Connected miscellaneous petitions are closed.”*

7. In similar matter in W.A(MD).No.1124 of 2023 the Division Bench of this Hon'ble Court by order dated 24.07.2023, the Hon'ble Court has held that:-

*“2. The application for incentive was rejected only on the ground that the first respondent had not obtained prior permission of the authorities for undergoing higher education. Therefore, the learned Single Judge of this Court, allowed the Writ Petition, following the view taken by this Court by another Judge of this Court in J.Tamilrajan .vs. Department of School Education and others passed in W.P(MD)No.4019 of 2018. It is now admitted before this Court the same view of this Court was affirmed in W.A(MD)No.813 of 2021 in the case of the Director of School Education, DPI Campus, College Road, Chennai -6 .vs. G.Anandhi, dated 16.4.2021.*

*3. This Court find that the issue is no-more resintegra in view of the several judgments on this issue holding that the claim of teachers for incentive increment cannot be rejected on the ground that the concerned teacher had not obtained prior permission of the authorities for undergoing higher education. Since the issue has been settled by precedents, this Court is unable to countenance the arguments advanced by the learned counsel for the appellants.*

*It is true that there are several Government Order which have insisted the*



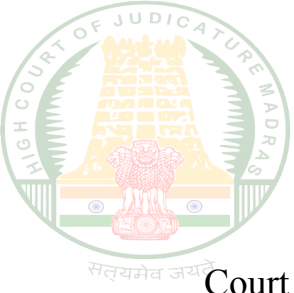
W.P.No.38383 of 2024

*requirement of permission of the educational authorities for a teacher to undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher qualification is to encourage the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service will have to obtain prior permission as per the Government Orders. Further it is to be noted that acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity and that will not entitle the respondents to reject the benefit to the teachers.*

*4. Considering the overall policy of the Government, there is no reason to take a different view as expressed by the learned Single Judge. The decision relied upon by the learned Single Judge in the subject-matter in issue has been subsequently affirmed by the learned Division Bench of this Court. Hence this Court finds no merit in the Writ Appeal and the same is liable to be dismissed.*

*5. Accordingly, the Writ Appeal stands dismissed. No costs. The appellants are directed to comply with the direction of the learned Single Judge within a period of twelve weeks from the date of receipt of a copy of this judgment. Consequently connected Miscellaneous Petition is dismissed.”*

*8. In view of the aforesaid decision as well as various decisions rendered by the Hon'ble Apex Court and Hon'ble Division Bench, this*



W.P.No.38383 of 2024

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Court is of the view that the petitioners is entitled for incentive increment who had acquired M.Phil degree and the same to be paid. It is also to be noted that the incentive increment cannot be rejected on the ground that they have not obtained prior permission of the authorities for undergoing higher education and also regarding the M.Phil degree through distance mode / part time mode is not eligible for incentive increment. Further, the fourth respondent till date has not made any recovery and hence no other issue to the effect regarding the eligibility. Hence, the petitioner is eligible for incentive from the date of 18.01.2013.

9. Accordingly, this writ petition is disposed of on the above terms.

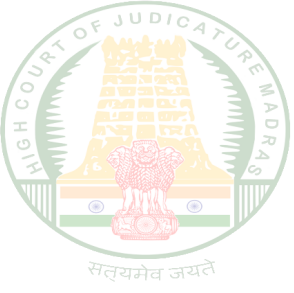
No costs. Consequently, the connected writ miscellaneous petitions are closed.

**30.01.2025**  
**(1/3)**

Index:Yes/No  
Speaking order/Non-speaking order  
rna

**To**

10/12



W.P.No.38383 of 2024

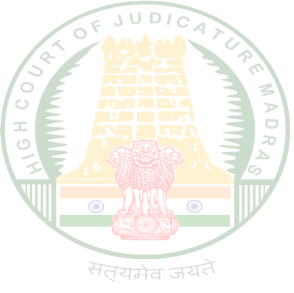
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- 1.The Director of School Education (Personnel),  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 2.Financial Advisor & The Principal Accounts Officer,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.
- 4.The Headmaster,  
Government Higher Secondary School,  
Thattapparai, Gudiyatham Taluk,  
Vellore District – 635 601.

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**V.BHAVANI SUBBAROYAN,J.**

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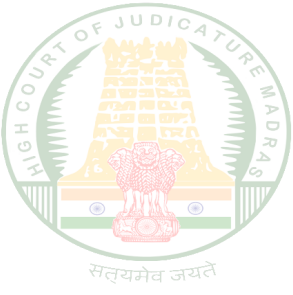
W.P.No.38383 of 2024

**W.P.No.38383 of 2024**  
**and W.M.P.No.41567 of 2024**

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**30.01.2025**  
**(1/3)**





W.P.No.38386 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: **30.01.2025**

CORAM:

**THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

**W.P.No.38386 of 2024**  
**and W.M.P.No.41575 of 2024**

S.Dhatchayani

... Petitioner

-VS-

1.The Director of School Education (Service Division),  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.

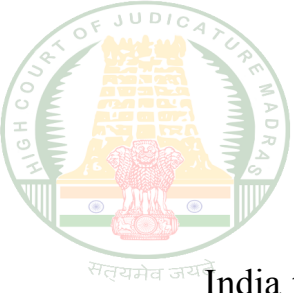
2.Financial Advisor & The Principal Accounts Officer,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.

3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.

4.The Headmaster,  
Government Boys Higher Secondary School,  
Nellorepettai, Gudiyatham,  
Vellore District – 632 602.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of



W.P.No.38386 of 2024

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India to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.053130/Aa.Ka.Tha/2023, dated 16.05.2024 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Higher Secondary School, Agravaram, Gudiyatham Taluk, Vellore District, for the M.Phil Degree obtained through distance mode and ordering recovery of the incentive granted to the petitioner from the salary of the petitioner from 01.04.2018 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

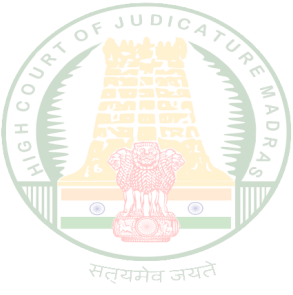
For Petitioner : Ms.C.Uma

For Respondents : Mrs.S.Mythreye Chandru,  
1 to 3 Special Government Pleader  
(Education)

For Respondent 4 : No Appearance

\*\*\*\*\*

**ORDER**



W.P.No.38386 of 2024

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This petition is filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.053130/Aa.Ka.Th/2023, dated 16.05.2024 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Higher Secondary School, Agravaram, Gudiyatham Taluk, Vellore District, for the M.Phil Degree obtained through distance mode and ordering recovery of the incentive granted to the petitioner from the salary of the petitioner from 01.04.2018 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

2. The case of the petitioner is that, he was appointed as a B.T Assistant in Government High School, Malaireddiyur, Gudiyatham Taluk, Vellore District and subsequently transferred to Government Boys Higher Secondary School, Nellorepet, Gudiyatham Taluk on 31.07.2010. The petitioner was granted permission by the first respondent to pursue M.Phil degree and completed M.Phil in the year 2017. For the same the



W.P.No.38386 of 2024

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fourth respondent sanctioned salary increment in his proceedings Na.Ka.No.006005/C3/E3/2016 dated 06.04.2016. Subsequently, second incentive for M.Phil degree was given to the petitioner with effect from 01.04.2018. The second respondent issued proceedings vide Ref.No.Na.Ka.No.053130/AaKaTha dated 16.05.2024 raising audit objections for the grant of incentive for M.Phil degree which was obtained through part time mode. Further the audit department directed the fourth respondent to compute the loss suffered by the Government for the grant of salary incentive to the petitioner and ordered to recover the said loss from the salary of the petitioner. Challenging the same the petitioner came up with the present writ petition.

3. The learned counsel for the petitioner submits that the Mother Teresa Women's University, Kodaikanal was established by Government of Tamilnadu in 1984, by the enactment of Tamilnadu Act 15 and is duly recognized by UGC. Further, the learned counsel for the petitioner relied upon the Judgment of this Court in supporting their contentions in W.A.No.2328 of 2018, wherein the Division Bench allowed writ appeal not to cancel or stop the increment already given. The petitioners are



W.P.No.38386 of 2024

entitled for the said incentive and prayed to allow the writ petition.

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4. The learned Special Government Pleader contends that the Internal audit wing of the school education department took the view that the Government Letter No.268/Higher Education (K2) Department dated 29.08.2006 and GO No.91 Higher Education (K2) Department dated 03.04.2009 and the proceedings of the Director of School Education in reference No.Na.Ka.No.081477/KE/2014 dated 27.10.2014 from the academic year 2007-08 the degrees by Correspondence / Distance Education Mode / Open University / Part time are ineligible for appointment in Government service. Hence the Government of Tamil Nadu has not granted permission to obtain the M.Phil / Ph.D degree in correspondence / Part Time mode and having obtained the higher education degree through unrecognised mode the petitioner's incentive increments from 01.04.2018 is withdrawn. In this case, the petitioner has obtained the M.Phil which cannot be accepted as an appropriate degree and prayed for dismissal of the writ petition.

5. The learned counsel for the respondents would contend that the



W.P.No.38386 of 2024

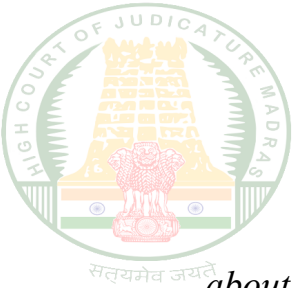
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petitioner also cannot ask for quashing the impugned order on the basis of Government G.O.(1D) No.18 dated 18.01.2013 the petitioners should not be entitled to even a grade for appearing in the said courses, but only from the date of the G.O passed in the year 2013 that is 18.01.2013 onwards. Further, it was submitted by the respondent's counsel that the authorities have taken the matter up to Supreme Court in SLP and that SLP is dismissed.

6. Recording the W.A.No.2328 of 2018 batch wherein the Hon'ble Division Bench held which 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.*

*34. However, the said submission made by the learned Government Pleader is liable to be rejected because, the said G.O has only mentioned*

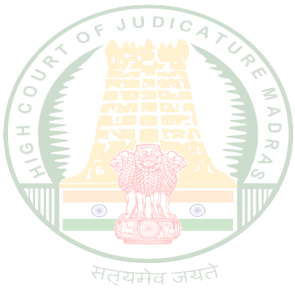


W.P.No.38386 of 2024

*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.*

*35. In the result, the following orders are passed in these writ appeals:*

- That the impugned order passed by the writ Court dated 06.09.2018 is set aside. As a sequel, the impugned order that was challenged before the Writ Court in the respective petitions is also set aside to the extent that those teachers who had studied in the Vinayaka Mission's University during the relevant point of time i.e., 2007 to 2009 since had acquired the qualification during the period which the University also enjoyed the approval or recognition from the DEC, IGNO, the said objection raised by the audit Department would not be sustained. Therefore, on that ground, the incentive increment already allowed to these teachers need not be disturbed. If the increment already been allowed to these teachers have been cancelled or stopped by virtue of the order, which is impugned herein, the same shall be restored and the arrears to that effect shall be calculated and be paid to the*



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W.P.No.38386 of 2024

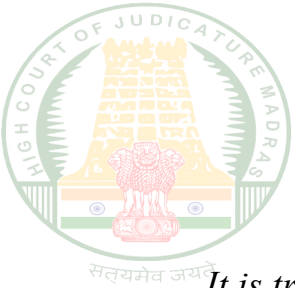
*teachers/appellants. To that extent, all these writ appeals are allowed. No costs. Connected miscellaneous petitions are closed.”*

7. In similar matter in W.A(MD).No.1124 of 2023 the Division Bench of this Hon'ble Court by order dated 24.07.2023, the Hon'ble Court has held that:-

*“2. The application for incentive was rejected only on the ground that the first respondent had not obtained prior permission of the authorities for undergoing higher education. Therefore, the learned Single Judge of this Court, allowed the Writ Petition, following the view taken by this Court by another Judge of this Court in J.Tamilrajan .vs. Department of School Education and others passed in W.P(MD)No.4019 of 2018. It is now admitted before this Court the same view of this Court was affirmed in W.A(MD)No.813 of 2021 in the case of the Director of School Education, DPI Campus, College Road, Chennai -6 .vs. G.Anandhi, dated 16.4.2021.*

*3. This Court find that the issue is no-more resintegra in view of the several judgments on this issue holding that the claim of teachers for incentive increment cannot be rejected on the ground that the concerned teacher had not obtained prior permission of the authorities for undergoing higher education. Since the issue has been settled by precedents, this Court is unable to countenance the arguments advanced by the learned counsel for the appellants.*





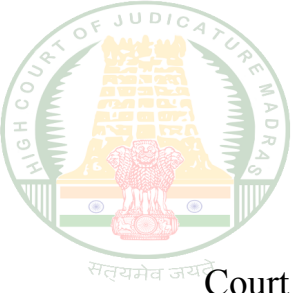
W.P.No.38386 of 2024

*It is true that there are several Government Order which have insisted the requirement of permission of the educational authorities for a teacher to undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher qualification is to encourage the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service will have to obtain prior permission as per the Government Orders. Further it is to be noted that acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity and that will not entitle the respondents to reject the benefit to the teachers.*

*4. Considering the overall policy of the Government, there is no reason to take a different view as expressed by the learned Single Judge. The decision relied upon by the learned Single Judge in the subject-matter in issue has been subsequently affirmed by the learned Division Bench of this Court. Hence this Court finds no merit in the Writ Appeal and the same is liable to be dismissed.*

*5. Accordingly, the Writ Appeal stands dismissed. No costs. The appellants are directed to comply with the direction of the learned Single Judge within a period of twelve weeks from the date of receipt of a copy of this judgment. Consequently connected Miscellaneous Petition is dismissed.”*

*8. In view of the aforesaid decision as well as various decisions rendered by the Hon'ble Apex Court and Hon'ble Division Bench, this*



W.P.No.38386 of 2024

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Court is of the view that the petitioners is entitled for incentive increment who had acquired M.Phil degree and the same to be paid. It is also to be noted that the incentive increment cannot be rejected on the ground that they have not obtained prior permission of the authorities for undergoing higher education and also regarding the M.Phil degree through distance mode / part time mode is not eligible for incentive increment. Further, the fourth respondent till date has not made any recovery and hence no other issue to the effect regarding the eligibility. Hence, the petitioner is eligible for incentive from the date of 18.01.2013.

9. Accordingly, this writ petition is disposed of on the above terms.

No costs. Consequently, the connected writ miscellaneous petitions are closed.

**30.01.2025**  
**(3/3)**

Index:Yes/No  
Speaking order/Non-speaking order  
rna



W.P.No.38386 of 2024

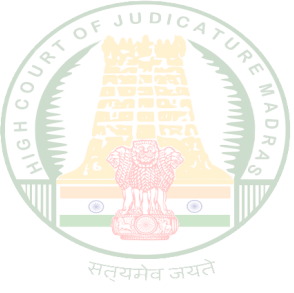
To  
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- 1.The Director of School Education (Service Division),  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 2.Financial Advisor & The Principal Accounts Officer,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.
- 4.The Headmaster,  
Government Boys Higher Secondary School,  
Nellorepettai, Gudiyatham,  
Vellore District – 632 602.

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**V.BHAVANI SUBBAROYAN,J.**

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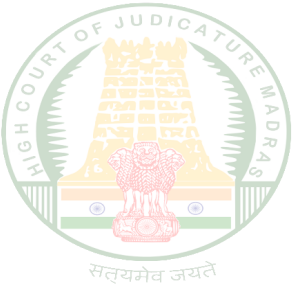


W.P.No.38386 of 2024

**W.P.No.38386 of 2024**  
**and W.M.P.No.41575 of 2024**

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**30.01.2025**  
**(3/3)**



W.P.No.38393 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: **30.01.2025**

CORAM:

**THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

**W.P.No.38393 of 2024**  
**and W.M.P.No.41582 of 2024**

N.Kumaran

... Petitioner

-VS-

1.The Director of School Education (Service Division),  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.

2.The Divisional Accounts Officer (Audit),  
School Education Department,  
LLA Building, 3<sup>rd</sup> Floor,  
Big Bazaar Street, Town Hall,  
Coimbatore 641 001.

3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.

4.The Headmaster,  
Government Higher Secondary School,  
Odugathur,  
Vellore District – 632 103.

... Respondents



W.P.No.38393 of 2024

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**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.2059/E14/2019 dated 05.10.2019 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Higher Secondary School, Kammavanpettai, Vellore District, 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 01.09.2017 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

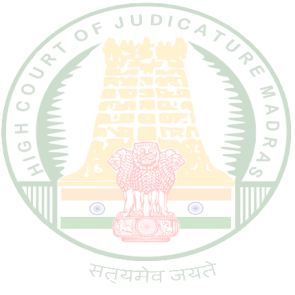
For Petitioner : Ms.C.Uma

For Respondents : Mrs.S.Mythreye Chandru,  
1 to 3 Special Government Pleader  
(Education)

For Respondent 4 : No Appearance

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**ORDER**

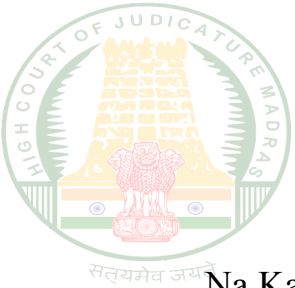


W.P.No.38393 of 2024

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This petition is filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.2059/E14/2019 dated 05.10.2019 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Higher Secondary School, Kammavanpettai, Vellore District, 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 01.09.2017 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

2. The case of the petitioner is that, he was appointed as a B.T Assistant in Government High School, Thamalerimuthur, Thirupathur Taluk, Vellore District, now he is working in Government Higher Secondary School, Thattapparai, Vellore District on 09.07.2004. The petitioner was granted permission by the first respondent to pursue M.Phil degree and completed M.Phil in the year 2017. For the same the fourth respondent sanctioned salary increment in his proceedings

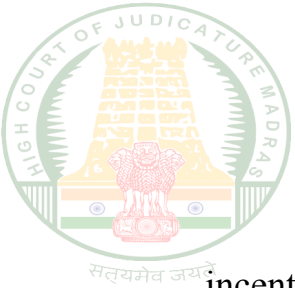


W.P.No.38393 of 2024

Na.Ka.No.75607/C3/E3/2015 dated 09.10.2015. Subsequently, second incentive for M.Phil degree was given to the petitioner with effect from 01.09.2017. The second respondent issued proceedings vide Ref.No.Na.Ka.No.2059/E14/2019 dated 05.10.2019 raising audit objections for the grant of incentive for M.Phil degree which was obtained through part time mode. Further the audit department directed the fourth respondent to compute the loss suffered by the Government for the grant of salary incentive to the petitioner and ordered to recover the said loss from the salary of the petitioner. Challenging the same the petitioner came up with the present writ petition.

3. The learned counsel for the petitioner submits that the Thiruvalluvar University, Vellore is established by Government of Tamilnadu in 2002, recognized by UGC under 2(f) and 12(b) of UGC Act, hence, Thiruvalluvar University, Vellore is duly recognized by UGC. Further, the learned counsel for the petitioner relied upon the Judgment of this Court in supporting their contentions in W.A.No.2328 of 2018, wherein the Division Bench allowed writ appeal not to cancel or stop the increment already given. The petitioners are entitled for the said





W.P.No.38393 of 2024

incentive and prayed to allow the writ petition.

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4. The learned Special Government Pleader contends that the Internal audit wing of the school education department took the view that the Government Letter No.268/Higher Education (K2) Department dated 29.08.2006 and GO No.91 Higher Education (K2) Department dated 03.04.2009 and the proceedings of the Director of School Education in reference No.Na.Ka.No.081477/KE/2014 dated 27.10.2014 from the academic year 2007-08 the degrees by Correspondence / Distance Education Mode / Open University / Part time are ineligible for appointment in Government service. Hence the Government of Tamil Nadu has not granted permission to obtain the M.Phil / Ph.D degree in correspondence / Part Time mode and having obtained the higher education degree through unrecognised mode the petitioner's incentive increments from 01.09.2017 is withdrawn. In this case, the petitioner has obtained the M.Phil which cannot be accepted as an appropriate degree and prayed for dismissal of the writ petition.

5. The learned counsel for the respondents would contends that the



W.P.No.38393 of 2024

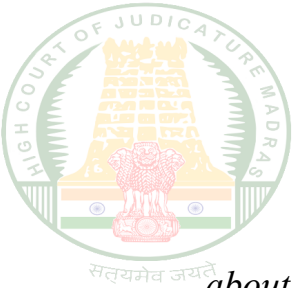
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petitioner also cannot ask for quashing the impugned order on the basis of Government G.O.(1D) No.18 dated 18.01.2013 the petitioners should not be entitled to even a grade for appearing in the said courses, but only from the date of the G.O passed in the year 2013 that is 18.01.2013 onwards. Further, it was submitted by the respondent's counsel that the authorities have taken the matter up to Supreme Court in SLP and that SLP is dismissed.

6. Recording the W.A.No.2328 of 2018 batch wherein the Hon'ble Division Bench held which 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.*

*34. However, the said submission made by the learned Government Pleader is liable to be rejected because, the said G.O has only mentioned*

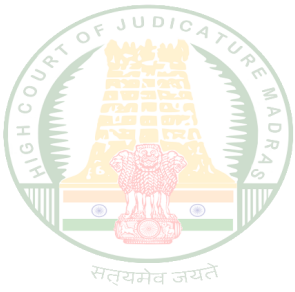


W.P.No.38393 of 2024

*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.*

*35. In the result, the following orders are passed in these writ appeals:*

- That the impugned order passed by the writ Court dated 06.09.2018 is set aside. As a sequel, the impugned order that was challenged before the Writ Court in the respective petitions is also set aside to the extent that those teachers who had studied in the Vinayaka Mission's University during the relevant point of time i.e., 2007 to 2009 since had acquired the qualification during the period which the University also enjoyed the approval or recognition from the DEC, IGNO, the said objection raised by the audit Department would not be sustained. Therefore, on that ground, the incentive increment already allowed to these teachers need not be disturbed. If the increment already been allowed to these teachers have been cancelled or stopped by virtue of the order, which is impugned herein, the same shall be restored and the arrears to that effect shall be calculated and be paid to the*



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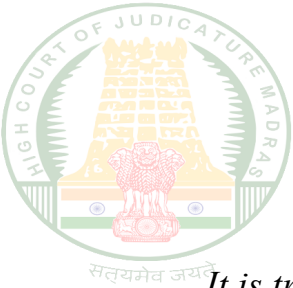
W.P.No.38393 of 2024

*teachers/appellants. To that extent, all these writ appeals are allowed. No costs. Connected miscellaneous petitions are closed.”*

7. In similar matter in W.A(MD).No.1124 of 2023 the Division Bench of this Hon'ble Court by order dated 24.07.2023, the Hon'ble Court has held that:-

*“2. The application for incentive was rejected only on the ground that the first respondent had not obtained prior permission of the authorities for undergoing higher education. Therefore, the learned Single Judge of this Court, allowed the Writ Petition, following the view taken by this Court by another Judge of this Court in J.Tamilrajan .vs. Department of School Education and others passed in W.P(MD)No.4019 of 2018. It is now admitted before this Court the same view of this Court was affirmed in W.A(MD)No.813 of 2021 in the case of the Director of School Education, DPI Campus, College Road, Chennai -6 .vs. G.Anandhi, dated 16.4.2021.*

*3. This Court find that the issue is no-more resintegra in view of the several judgments on this issue holding that the claim of teachers for incentive increment cannot be rejected on the ground that the concerned teacher had not obtained prior permission of the authorities for undergoing higher education. Since the issue has been settled by precedents, this Court is unable to countenance the arguments advanced by the learned counsel for the appellants.*



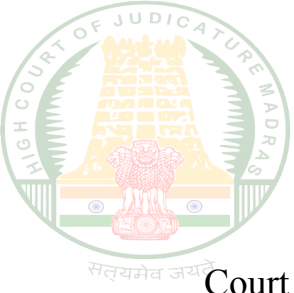
W.P.No.38393 of 2024

*It is true that there are several Government Order which have insisted the requirement of permission of the educational authorities for a teacher to undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher qualification is to encourage the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service will have to obtain prior permission as per the Government Orders. Further it is to be noted that acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity and that will not entitle the respondents to reject the benefit to the teachers.*

*4. Considering the overall policy of the Government, there is no reason to take a different view as expressed by the learned Single Judge. The decision relied upon by the learned Single Judge in the subject-matter in issue has been subsequently affirmed by the learned Division Bench of this Court. Hence this Court finds no merit in the Writ Appeal and the same is liable to be dismissed.*

*5. Accordingly, the Writ Appeal stands dismissed. No costs. The appellants are directed to comply with the direction of the learned Single Judge within a period of twelve weeks from the date of receipt of a copy of this judgment. Consequently connected Miscellaneous Petition is dismissed.”*

*8. In view of the aforesaid decision as well as various decisions rendered by the Hon'ble Apex Court and Hon'ble Division Bench, this*



W.P.No.38393 of 2024

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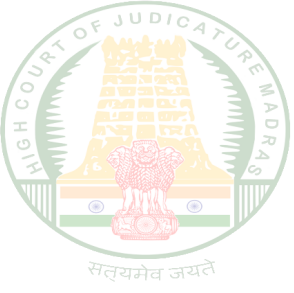
Court is of the view that the petitioners is entitled for incentive increment who had acquired M.Phil degree and the same to be paid. It is also to be noted that the incentive increment cannot be rejected on the ground that they have not obtained prior permission of the authorities for undergoing higher education and also regarding the M.Phil degree through distance mode / part time mode is not eligible for incentive increment. Further, the fourth respondent till date has not made any recovery and hence no other issue to the effect regarding the eligibility. Hence, the petitioner is eligible for incentive from the date of 18.01.2013.

9. Accordingly, this writ petition is disposed of on the above terms.

No costs. Consequently, the connected writ miscellaneous petitions are closed.

**30.01.2025**  
**(2/3)**

Index:Yes/No  
Speaking order/Non-speaking order  
rna



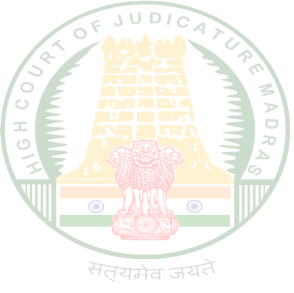
W.P.No.38393 of 2024

WEB COPY **To**

- 1.The Director of School Education (Service Division),  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 2.The Divisional Accounts Officer (Audit),  
School Education Department,  
LLA Building, 3<sup>rd</sup> Floor,  
Big Bazaar Street, Town Hall,  
Coimbatore 641 001.
- 3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.
- 4.The Headmaster,  
Government Higher Secondary School,  
Odugathur,  
Vellore District – 632 103.

**v.V.BHAVANI SUBBAROYAN,J.**

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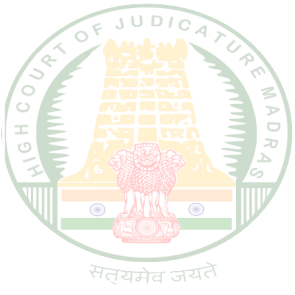
W.P.No.38393 of 2024

**W.P.No.38393 of 2024**  
**and W.M.P.No.41582 of 2024**

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30.01.2025  
(2/3)





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W.P.No.3825 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2025

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.3825 of 2025

and

W.M.P.Nos.4236 and 4238 of 2025

M.Poomagal

Vs.

.. Petitioner

1. The Director of School Education,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
2. The Divisional Accounts Officer (Audit),  
School Education Department,  
LLA Building 3<sup>rd</sup> Floor,  
Big Bazaar Street, Town Hall,  
Coimbatore – 641001.
3. The Chief Educational Officer,  
Thiruvannamalai,  
Thiruvannamalai District.
4. The Headmaster,  
Government Girls Higher Secondary School,  
Vandavasi,  
Thiruvannamalai District – 604 408.

.. Respondents



W.P.No.3825 of 2025

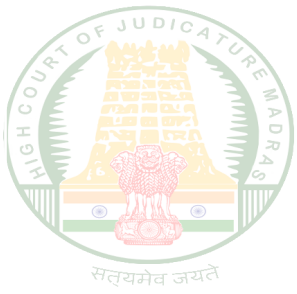
**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent in proceedings having Ref.No.Na.Ka.No.934/E19/2017, dated 18.04.2017 raising audit objection to the grant of incentive to the petitioner who is working as B.T. Assistant in the Government Higher Secondary School, Cholavaram, Vellore District, for the M.Phil Degree obtained through distance mode and ordering recovery of the incentive granted to the petitioner from the salary of the petitioner from 18.01.2013 and quash the same as arbitrary and consequently direct the first respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through distance mode along with the petitioner's salary.

For Petitioner : Ms.K.Chandra

For Respondents : Mrs.Mythreye Chandru,  
Special Government Pleader

### **ORDER**

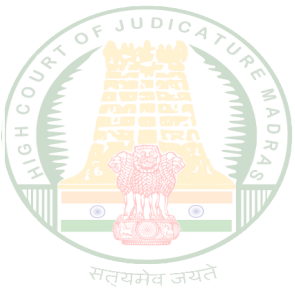
This Writ Petition has been filed in the nature of a Certiorarified Mandamus with respect to the audit objection dated 18.04.2017, relating to the grant of incentive to the petitioner, who was working as a B.T. Assistant in Government Higher Secondary School, Cholavaram, Vellore District, for the M.Phil degree obtained through distance education and ordering recovery of the incentive granted to the petitioner from his salary from 18.01.2013.



W.P.No.3825 of 2025

2. In the affidavit filed in support of the writ petition, it had been contended that the petitioner had been granted permission by the Headmaster of the Government Higher Secondary School, Killputhur, Tiruvannamalai District, to pursue M.Phil degree from Vinayaka Missions University at Salem in the year 2008-2009. It must be mentioned that the petitioner was working as a B.T. Assistant on and from 05.03.2007. Thereafter, the petitioner also successfully completed the M.Phil degree. The petitioner was granted a second incentive for the M.Phil degree with effect from 18.01.2013.

3. The second respondent thereafter issued proceedings, raising an objection to the grant of incentive for obtaining the M.Phil degree through distance education from Vinayaka Missions University at Salem. In pursuance of such notice issued, the impugned order came to be passed, directing recovery of incentive pay from the petitioner herein. The issue is no longer *res integra*. The Division Bench of this Court in W.A.Nos.2328 of 2018, etc., batch, wherein the same issue was examined, observed, and passed the following order:-



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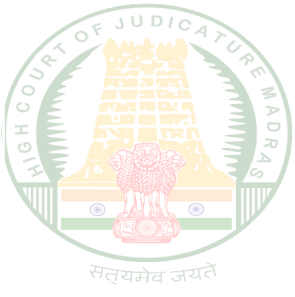
W.P.No.3825 of 2025

*“30. Here, the fact remains that, insofar as the Vinayaka Mission's University is concerned, it has been given the recognition or approval by the DEC, IGNO by order dated 28.02.2007.*

*31. When that being so, even according to the audit team, since these teachers are entitled to get their advance incentive increment as their increment has been ordered already and was enjoyed by them it need not be stopped or cancelled.*

*35. In the result, the following orders are passed in these writ appeals:*

*? That the impugned order passed by the writ Court dated 06.09.2018 is set aside. As a sequel, the impugned order that was challenged before the Writ Court in the respective petitions is also set aside to the extent that those teachers who had studied in the Vinayaka Mission's University during the relevant point of time i.e., 2007 to 2009 since had acquired the qualification during the period which the University also enjoyed the approval or recognition from the DEC, IGNO, the said objection raised by the audit Department would not be sustained. Therefore, on that ground, the incentive increment already allowed to these teachers need not be disturbed. If the increment*



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W.P.No.3825 of 2025

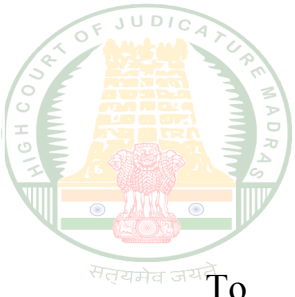
*already been allowed to these teachers have been cancelled or stopped by virtue of the order, which is impugned herein, the same shall be restored and the arrears to that effect shall be calculated and be paid to the teachers/appellants. To that extent, all these writ appeals are allowed. No costs. Connected miscellaneous petitions are closed.”*

4. The same order accrues to the favour of the petitioner herein. The impugned order dated 18.04.2017 is set aside and the petitioner, having acquired the qualification during the period when the University also enjoyed approval or recognition from the DEC, IGNOU, it is made clear that she is entitled to the grant of incentive. The order of recovery is hereby quashed.

5. In the result, this Writ Petition stands allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

10.02.2025

Index: Yes/No  
Internet: Yes/No  
Neutral Case Citation: Yes/No  
kv

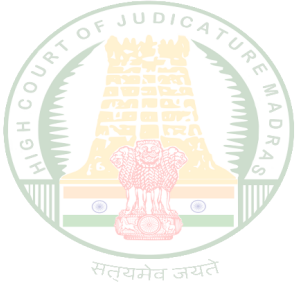


W.P.No.3825 of 2025

To  
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1. The Director of School Education,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
2. The Divisional Accounts Officer (Audit),  
School Education Department,  
LLA Building 3<sup>rd</sup> Floor,  
Big Bazaar Street, Town Hall,  
Coimbatore – 641001.
3. The Chief Educational Officer,  
Thiruvannamalai,  
Thiruvannamalai District.
4. The Headmaster,  
Government Girls Higher Secondary School,  
Vandavasi,  
Thiruvannamalai District – 604 408.

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W.P.No.3825 of 2025

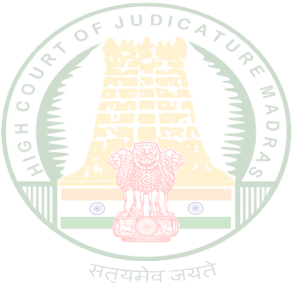
**C.V.KARTHIKEYAN,J.**

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W.P.No.3825 of 2025

10.02.2025



W.P.No.37180 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 30.01.2025

CORAM:

**THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

**W.P.No.37180 of 2024**  
**and W.M.P.No.40179 & 40183 of 2024**

N.S.Balasubramaniam

... Petitioner

-vs-

1.The Director of School Education (Service Division)  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.

2.The Divisional Accounts Officer (Audit),  
School Education Department,  
LLA Building 3<sup>rd</sup> Floor,  
Big Bazaar Street, Town Hall,  
Coimbatore 641 001.

3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.

4.The Headmaster,  
Government Municipal Higher Secondary School,  
Gudiyatham,  
Vellore District – 632 602.

... Respondents





W.P.No.37180 of 2024

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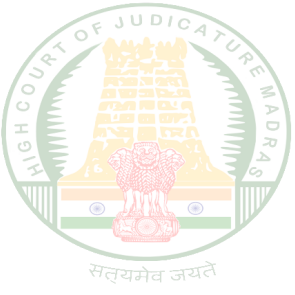
**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.2915/E14/2019, dated 10.01.2020 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Municipal Higher Secondary School, Gudiyatham, Vellore, 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 14.08.2018 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

For Petitioner : Ms.C.Uma

For Respondents : Mrs.S.Mythreye Chandru,  
1 to 3 Special Government Pleader  
(Education)

For Respondent 4 : No Appearance

\*\*\*\*\*



W.P.No.37180 of 2024

**ORDER**

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This petition is filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.2915/E14/2019, dated 10.01.2020 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Municipal Higher Secondary School, Gudiyatham, Vellore, 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 14.08.2018 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

2. The case of the petitioner is that, he was appointed as a B.T. Assistant in PUMS, Gandhi Nagar, Gudiyatham, Vellore District on 14.09.2005 and subsequently transferred to Government Municipal Higher Secondary School, Gudiyatham on 02.03.2010. The petitioner was granted permission by the first respondent to pursue M.Phil degree

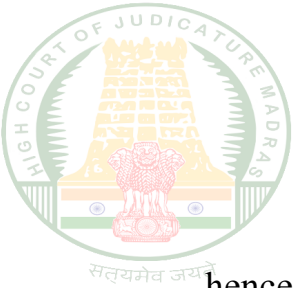


W.P.No.37180 of 2024

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and completed M.Phil in August 2018. For the same the fourth respondent sanctioned salary increment in his proceedings Na.Ka.No.23714/C2/E3/2016 dated 30.06.2016. Subsequently, second incentive for M.Phil degree was given to the petitioner with effect from 14.08.2018. The second respondent issued proceedings vide Ref.No.Na.Ka.No.2915/E14/2019 dated 10.01.2020 raising audit objections for the grant of incentive for M.Phil degree which was obtained through part time mode. Further the audit department directed the fourth respondent to compute the loss suffered by the Government for the grant of salary incentive to the petitioner and ordered to recover the said loss from the salary of the petitioner. Challenging the same the petitioner came up with the present writ petition.

3. The learned counsel for the petitioner submits that the Sri Chandrasekharaendra Saraswathi Viswa Mahavidyalaya University, Kancheepuram was declared as Deemed to be University under Section 3 of University Grant Commission, 1956 by Ministry of Human Resource Development on the advice of University Grants Commission as per the Notification No.F.9-9/92-U3 dated 26.05.1993 by Government of India,

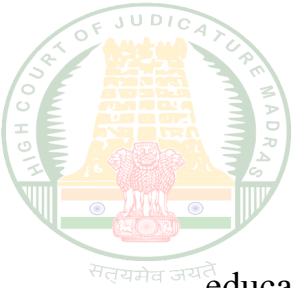


W.P.No.37180 of 2024

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Hence Sri Chandrasekharaendra Saraswathi Viswa Mahavidyalaya University is duly recognized by UGC. Further, the learned counsel for the petitioner relied upon the Judgment of this Court in supporting their contentions in W.A.No.232 of 2018, wherein the Division Bench allowed writ appeal not to cancel or stop the increment already given. The petitioners are entitled for the said incentive and prayed to allow the writ petition.

4. The learned Special Government Pleader contends that the Internal audit wing of the school education department took the view that the Government Letter No.268/Higher Education (k2) Department dated 29.08.2006 and GO No.91 Higher Education (K2) Department dated 03.04.2009 and the proceedings of the Director of School Education in reference No.Na.Ka.No.081477/KE/2014 dated 27.10.2014 from the academic year 2007-08 the degrees by Correspondence / Distance Education Mode / Open University / Part time are ineligible for appointment in Government service. Hence the Government of Tamil Nadu has not granted permission to obtain the M.Phil / Ph.D degree in correspondence / Part Time mode and having obtained the higher



W.P.No.37180 of 2024

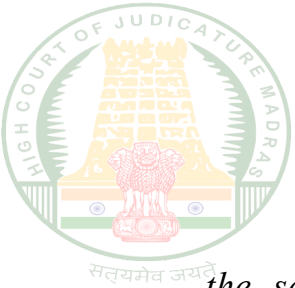
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education degree through unrecognised mode the petitioner's incentive increments from 12.01.2018 is withdrawn. In this case, the petitioner has obtained the M.Phil which cannot be accepted as an appropriate degree and prayed for dismissal of the writ petition.

5. The learned counsel for the respondents also would contends that the petitioner also cannot ask for quashing the impugned order on the basis of Government G.O.(1D) No.18 dated 18.01.2013 the petitioners should not entitled for even grade of appearing the said courses but from the said decree but only from the date of the G.O passed in the year 2013 that is 18.01.2013 onwards further it was submitted by the respondent's counsel that the authorities have taken the matter up to Supreme Court the Hon'ble Apex Court in SLP and that SLP is dismissed.

6. Recording the W.A.No.2328 of 2018 batch wherein the Hon'ble Division Bench held which 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*



W.P.No.37180 of 2024

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*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.*

*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.*

*35. In the result, the following orders are passed in these writ*

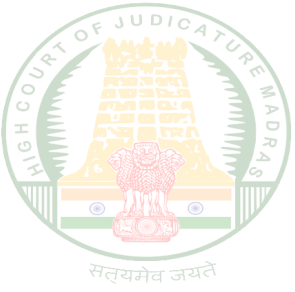


W.P.No.37180 of 2024

appeals:

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- *That the impugned order passed by the writ Court dated 06.09.2018 is set aside. As a sequel, the impugned order that was challenged before the Writ Court in the respective petitions is also set aside to the extent that those teachers who had studied in the Vinayaka Mission's University during the relevant point of time i.e., 2007 to 2009 since had acquired the qualification during the period which the University also enjoyed the approval or recognition from the DEC, IGNO, the said objection raised by the audit Department would not be sustained. Therefore, on that ground, the incentive increment already allowed to these teachers need not be disturbed. If the increment already been allowed to these teachers have been cancelled or stopped by virtue of the order, which is impugned herein, the same shall be restored and the arrears to that effect shall be calculated and be paid to the teachers/appellants. To that extent, all these writ appeals are allowed. No costs. Connected miscellaneous petitions are closed.”*



W.P.No.37180 of 2024

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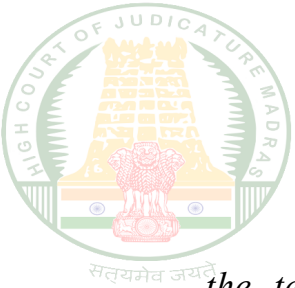
7. In similar matter in W.A(MD).No.1124 of 2023 the Division Bench of this Hon'ble Court by order dated 24.07.2023, the Hon'ble Court has held that:-

*“2. The application for incentive was rejected only on the ground that the first respondent had not obtained prior permission of the authorities for undergoing higher education. Therefore, the learned Single Judge of this Court, allowed the Writ Petition, following the view taken by this Court by another Judge of this Court in J.Tamilrajan .vs. Department of School Education and others passed in W.P(MD)No.4019 of 2018. It is now admitted before this Court the same view of this Court was affirmed in W.A(MD)No.813 of 2021 in the case of the Director of School Education, DPI Campus, College Road, Chennai -6 .vs. G.Anandhi, dated 16.4.2021.*

*3. This Court find that the issue is no-more resintegra in view of the several judgments on this issue holding that the claim of teachers for incentive increment cannot be rejected on the ground that the concerned teacher had not obtained prior permission of the authorities for undergoing higher education. Since the issue has been settled by precedents, this Court is unable to countenance the arguments advanced by the learned counsel for the appellants.*

*It is true that there are several Government Order which have insisted the requirement of permission of the educational authorities for a teacher to undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher qualification is to encourage*



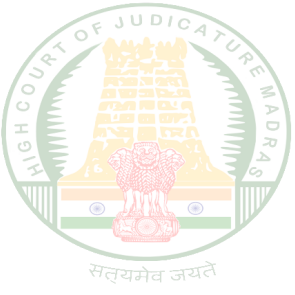


W.P.No.37180 of 2024

*the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service will have to obtain prior permission as per the Government Orders. Further it is to be noted that acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity and that will not entitle the respondents to reject the benefit to the teachers.*

*4. Considering the overall policy of the Government, there is no reason to take a different view as expressed by the learned Single Judge. The decision relied upon by the learned Single Judge in the subject-matter in issue has been subsequently affirmed by the learned Division Bench of this Court. Hence this Court finds no merit in the Writ Appeal and the same is liable to be dismissed.*

*5. Accordingly, the Writ Appeal stands dismissed. No costs. The appellants are directed to comply with the direction of the learned Single Judge within a period of twelve weeks from the date of receipt of a copy of this judgment. Consequently connected Miscellaneous Petition is dismissed.”*



W.P.No.37180 of 2024

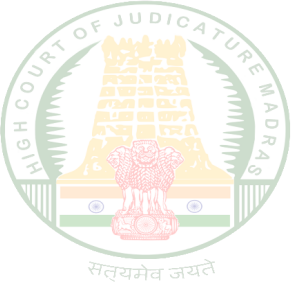
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8. In view of the aforesaid decision as well as various decisions rendered by the Hon'ble Apex Court and Hon'ble Division Bench, this Court is of the view that the petitioners is entitled for incentive increment who had acquired M.Phil degree and the same to be paid. It is also to be noted that the incentive increment cannot be rejected on the ground that they have not obtained prior permission of the authorities for undergoing higher education and also regarding the M.Phil degree through distance mode / part time mode is not eligible for incentive increment. Further, the fourth respondent till date has not made any recovery and hence no other issue to the effect regarding the eligibility. Hence, the petitioner is eligible for incentive from the date of 18.01.2013.

9. Accordingly, this writ petition is disposed of on the above terms. No costs. Consequently, the connected writ miscellaneous petitions are closed.

**30.01.2025**

Index:Yes/No  
Speaking order/Non-speaking order  
rna



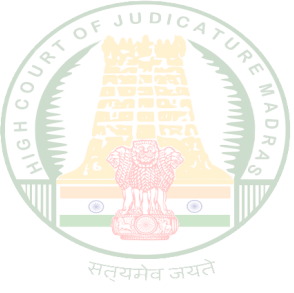
W.P.No.37180 of 2024

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**To**

- 1.The Director of School Education (Service Division)  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
- 2.The Divisional Accounts Officer (Audit),  
School Education Department,  
LLA Building 3<sup>rd</sup> Floor,  
Big Bazaar Street, Town Hall,  
Coimbatore 641 001.
- 3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.
- 4.The Headmaster,  
Government Municipal Higher Secondary School,  
Gudiyatham,  
Vellore District – 632 602.

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W.P.No.37180 of 2024

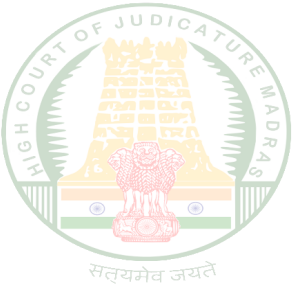
**V.BHAVANI SUBBAROYAN,J.**

rna

**W.P.No.37180 of 2024**  
**and W.M.P.No.40179 & 40183 of 2024**

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**30.01.2025**



W.P.No.34615 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: **30.01.2025**

CORAM:

**THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

**W.P.No.34615 of 2024**  
**and W.M.P.No.37549 of 2024**

J.Devika

... Petitioner

-VS-

1.The Director of School Education (Service Division),  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.

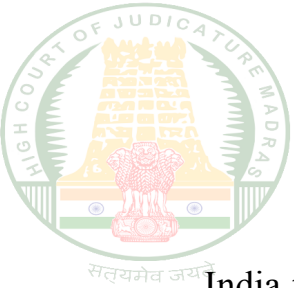
2.Financial Advisor & The Principal Accounts Officer,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.

3.The Chief Educational Officer,  
Vellore District,  
Vellore – 631 001.

4.The Headmaster,  
Government Higher Secondary School,  
Agravaram, Gudiyatham,  
Vellore District – 632 604.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of



W.P.No.34615 of 2024

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India to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.053130/AaKaTha/2023 dated 23.02.2024 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Higher Secondary School, Agravaram, Vellore, 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 26.01.2017 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

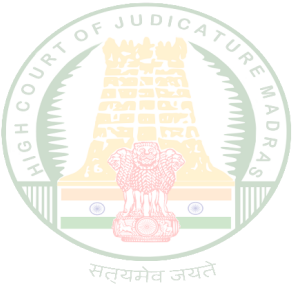
For Petitioner : Ms.C.Uma

For Respondents : Mrs.S.Mythreye Chandru,  
1 to 3 Special Government Pleader  
(Education)

For Respondent 4 : No Appearance

\*\*\*\*\*

**ORDER**



W.P.No.34615 of 2024

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This petition is filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.053130/AaKaTha/2023 dated 23.02.2024 raising audit objection to the grant of incentive to the petitioner who is working as B.T Assistant in the Government Higher Secondary School, Agravaram, Vellore, 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 26.01.2017 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through part time along with the petitioner's salary.

2. The case of the petitioner is that, he was appointed as a B.T. Assistant in Government High School, Nellorepet, Gudiyattam, Vellore District on 17.12.2012. The petitioner was granted permission by the first respondent to pursue M.Phil degree and completed M.Phil in the year 2017. For the same the fourth respondent sanctioned salary increment in his proceedings Na.Ka.No.098253/C3/E3/2015 dated 30.01.2015. Subsequently, second incentive for M.Phil degree was given to the



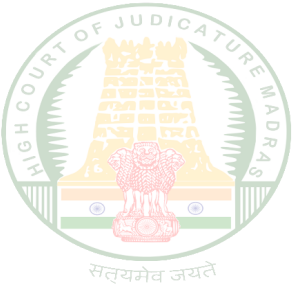
W.P.No.34615 of 2024

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petitioner with effect from 26.01.2017. The second respondent issued proceedings vide Ref.No.Na.Ka.No.053130/AaKaTha/2023 dated 23.02.2024 raising audit objections for the grant of incentive for M.Phil degree which was obtained through part time mode. Further the audit department directed the fourth respondent to compute the loss suffered by the Government for the grant of salary incentive to the petitioner and ordered to recover the said loss from the salary of the petitioner. Challenging the same the petitioner came up with the present writ petition.

3. The learned counsel for the petitioner submits that the Thiruvalluvar University, Vellore is established by Government of Tamil Nadu in 2002, recognized by UGC under 2(f) and 12(b) of UGC Act, hence, Thiruvalluvar University, Vellore is duly recognized by UGC. Further, the learned counsel for the petitioner relied upon the Judgment of this Court in supporting their contentions in W.A.No.2328 of 2018, wherein the Division Bench allowed writ appeal not to cancel or stop the increment already given. The petitioners are entitled for the said incentive and prayed to allow the writ petition.



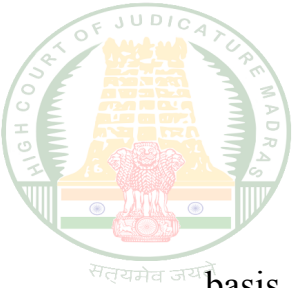


W.P.No.34615 of 2024

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4. The learned Special Government Pleader contends that the Internal audit wing of the school education department took the view that the Government Letter No.268/Higher Education (k2) Department dated 29.08.2006 and GO No.91 Higher Education (K2) Department dated 03.04.2009 and the proceedings of the Director of School Education in reference No.Na.Ka.No.081477/KE/2014 dated 27.10.2014 from the academic year 2007-08 the degrees by Correspondence / Distance Education Mode / Open University / Part time are ineligible for appointment in Government service. Hence the Government of Tamil Nadu has not granted permission to obtain the M.Phil / Ph.D degree in correspondence / Part Time mode and having obtained the higher education degree through unrecognised mode the petitioner's incentive increments from 26.01.2017 is withdrawn. In this case, the petitioner has obtained the M.Phil which cannot be accepted as an appropriate degree and prayed for dismissal of the writ petition.

5. The learned counsel for the respondents also would contend that the petitioner cannot ask for quashing the impugned order on the



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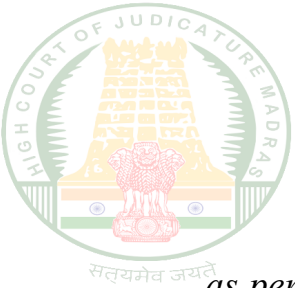
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basis of Government G.O.(1D) No.18 dated 18.01.2013 the petitioners should not be entitled to even a grade for appearing in the said courses, but only from the date of the G.O passed in the year 2013 that is 18.01.2013 onwards. Further, it was submitted by the respondent's counsel that the authorities have taken the matter up to Supreme Court in SLP and that SLP is dismissed.

6. Recording the W.A.No.2328 of 2018 batch wherein the Hon'ble Division Bench held which 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.*

*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,*

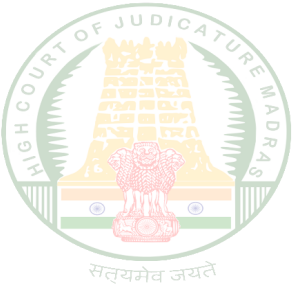


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*as per earlier qualification acquired already, been appointed as teachers or lecturers and the benefit now questioned is only the grant of advance incentive increment for having acquired the higher qualification. Therefore, the G.O.Ms.No.91 dated 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.*

*35. In the result, the following orders are passed in these writ appeals:*

- That the impugned order passed by the writ Court dated 06.09.2018 is set aside. As a sequel, the impugned order that was challenged before the Writ Court in the respective petitions is also set aside to the extent that those teachers who had studied in the Vinayaka Mission's University during the relevant point of time i.e., 2007 to 2009 since had acquired the qualification during the period which the University also enjoyed the approval or recognition from the DEC, IGNO, the said objection raised by the audit Department would not be sustained. Therefore, on that ground, the incentive increment already allowed to these teachers need not be disturbed. If the increment already been allowed to these teachers have been cancelled or stopped by virtue of the order, which is impugned herein, the same shall be restored and the arrears to that effect shall be calculated and be paid to the teachers/appellants. To that extent, all these writ appeals are*



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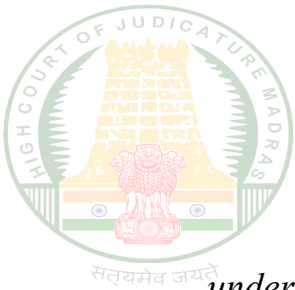
*allowed. No costs. Connected miscellaneous petitions are closed.”*

7. In similar matter in W.A(MD).No.1124 of 2023 the Division Bench of this Hon'ble Court by order dated 24.07.2023, the Hon'ble Court has held that:-

*“2. The application for incentive was rejected only on the ground that the first respondent had not obtained prior permission of the authorities for undergoing higher education. Therefore, the learned Single Judge of this Court, allowed the Writ Petition, following the view taken by this Court by another Judge of this Court in J.Tamilrajan .vs. Department of School Education and others passed in W.P(MD)No.4019 of 2018. It is now admitted before this Court the same view of this Court was affirmed in W.A(MD)No.813 of 2021 in the case of the Director of School Education, DPI Campus, College Road, Chennai -6 .vs. G.Anandhi, dated 16.4.2021.*

*3. This Court find that the issue is no-more resintegra in view of the several judgments on this issue holding that the claim of teachers for incentive increment cannot be rejected on the ground that the concerned teacher had not obtained prior permission of the authorities for undergoing higher education. Since the issue has been settled by precedents, this Court is unable to countenance the arguments advanced by the learned counsel for the appellants.*

*It is true that there are several Government Order which have insisted the requirement of permission of the educational authorities for a teacher to*



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*undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher qualification is to encourage the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service will have to obtain prior permission as per the Government Orders. Further it is to be noted that acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity and that will not entitle the respondents to reject the benefit to the teachers.*

*4. Considering the overall policy of the Government, there is no reason to take a different view as expressed by the learned Single Judge. The decision relied upon by the learned Single Judge in the subject-matter in issue has been subsequently affirmed by the learned Division Bench of this Court. Hence this Court finds no merit in the Writ Appeal and the same is liable to be dismissed.*

*5. Accordingly, the Writ Appeal stands dismissed. No costs. The appellants are directed to comply with the direction of the learned Single Judge within a period of twelve weeks from the date of receipt of a copy of this judgment. Consequently connected Miscellaneous Petition is dismissed.”*

8. In view of the aforesaid decision as well as various decisions rendered by the Hon'ble Apex Court and Hon'ble Division Bench, this Court is of the view that the petitioners is entitled for incentive increment



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who had acquired M.Phil degree and the same to be paid. It is also to be noted that the incentive increment cannot be rejected on the ground that they have not obtained prior permission of the authorities for undergoing higher education and also regarding the M.Phil degree through distance mode / part time mode is not eligible for incentive increment. Further, the fourth respondent till date has not made any recovery and hence no other issue to the effect regarding the eligibility. Hence, the petitioner is eligible for incentive from the date of 18.01.2013.

9. Accordingly, this writ petition is disposed of on the above terms.

No costs. Consequently, the connected writ miscellaneous petitions are closed.

**30.01.2025**  
**(1/2)**

Index:Yes/No  
Speaking order/Non-speaking order  
rna

**To**

1.The Director of School Education (Service Division),  
Directorate of School Education,



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DPI Campus, College Road, Chennai – 600 006.

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2. Financial Advisor & The Principal Accounts Officer,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.

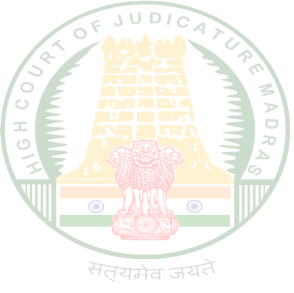
3. The Chief Educational Officer,  
Vellore District, Vellore – 631 001.

4. The Headmaster,  
Government Higher Secondary School,  
Agravaram, Gudiyatham, Vellore District – 632 604.

WWW.Padasalai.Net

**V.BHAVANI SUBBAROYAN,J.**

rna



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**W.P.No.34615 of 2024**  
**and W.M.P.No.37549 of 2024**

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**30.01.2025**  
**(1/2)**