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W.A.(MD)NO.664 OF 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.A.(MD)No.664 of 2025 AND

C.M.P.(MD)No.4704 of 2025

1. The Regional Accounts Officer(Audit),
School Education Department,
Thallakulam, Madurai -2.
2. The Headmaster,
Arasan Shanmuganar Government
Higher Secondary School,
Solavandan, Madurai District. ... Appellants / Respondents

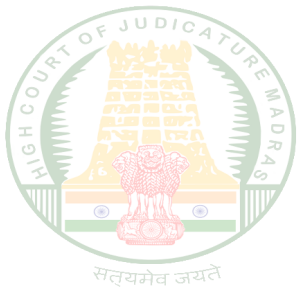
Vs.

Senkathir ... Respondent / Writ petitioner

Prayer: Writ appeal filed under Clause 15 of the Letters Patent,
to set aside the order dated 20.02.2024 passed in W.P.(MD)No.18649
of 2020 and allow the writ appeal.

For Appellants : Mr.C.Venkatesh Kumar,
Special Government Pleader.
For Respondent : Mr.R.Murali

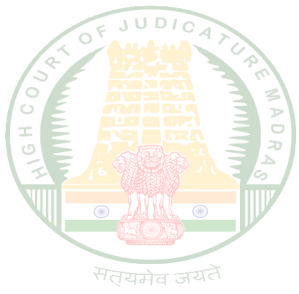
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**JUDGMENT**

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Heard both sides.

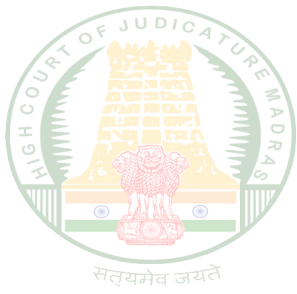
2. The writ petitioner is working as Physical Education Director. He acquired M.Phil degree in Physical Education in the year 1999. He was granted first incentive increment with effect from 03.06.2002. It was sought to be recovered vide order dated 30.11.2020. According to the Audit Wing, M.Phil degree came to be recognised as higher qualification for conferring incentive increments only vide G.O.Ms.No.177 School Education Department dated 13.10.2016. The Department took the stand that incentive increments for acquiring M.Phil degree can be given only from the date of the said GO. and not from prior to the GO. Hence, recovery of incentive increments paid to the writ petitioner till 12.10.2016 was ordered to be recovered. Challenging the same, the writ petitioner filed W.P.(MD)No.18649 of 2020. The learned single Judge vide order dated 20.02.2024 allowed the writ petition and set aside the order impugned therein. Paragraph Nos.2 to 4 of the order of the learned single Judge read as follows:-



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“2. While the petitioner was working as Physical Education Director, he was granted incentive increments based upon the Government Orders vide G.O.Ms.No.95, Education department dated 21.01.1980 and G.O.Ms.No.324, Education Department, dated 25.04.1995 with effect from 03.06.2002. However, an audit objection was taken on the ground that the higher qualifications were prescribed for the first time through G.O.Ms.No. 177, Education Department, dated 13.10.2016 and as such the increments that were released to the petitioner with effect from 03.06.2022 are sought to be recovered. The Government Orders, under which the petitioner was granted incentive increments, themselves provided for grant of increments on acquiring higher qualification and in respect of the petitioner, the requirement is that the higher qualification should be in physical education. There is no dispute that the petitioner acquired such additional qualification and only on acquiring the additional qualification, the petitioner was granted incentive increments in the year 2002. Merely because the Government prescribed certain qualifications in the year 2016 by issuing



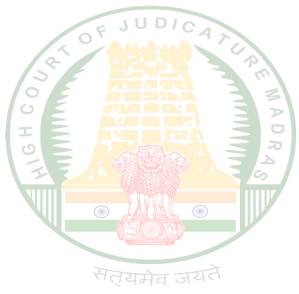
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G.O.Ms.No.177, Education Department, dated 13.10.2016, it does not mean that the eligibility of the petitioner to draw incentive increments, pursuant to the previous Government orders, would be lost or would become illegal.

3. In addition to the above, the very same issue has been considered by the learned single Judge of this Court in W.P.(MD)No.1771 of 2021, dated 10.01.2024, by following the previous decisions of this Court in W.P. (MD)No.290 of 2018 and all the contentions that were raised in the counter affidavit filed by the respondents in the said Writ Petition were considered and were negated by the learned single judge.

4. In the light of the above, following the order passed by this Court in W.P.(MD)No.1771 of 2021, the impugned order is quashed and the entire amount that was recovered from the petitioner is liable to be refunded to the petitioner. Accordingly, this Writ Petition is allowed setting aside the impugned order with a further direction to refund the entire amount recovered under the impugned order to the petitioner within a period of two months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition



is closed. There shall be no order as to costs.”

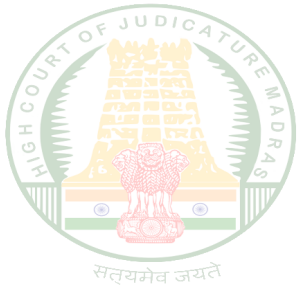
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3. We are more than satisfied that the Physical Education Director who has acquired higher qualification in Physical Education is entitled to incentive increments by virtue of G.O.Ms.No.624 Education (E2) Department dated 13.07.1992. Clause iv of the aforesaid Government Order reads is as follows:-

“ In respect of physical education teachers incentive increments will be sanctioned in future only in the area of physical education with a view to upgrade physical training. The Director of School Education will identify the courses in this area also.”

This was reiterated vide G.O.Ms.No.324 Education, Science and Technology Department (E2) dated 25.04.1995. Clause iv of the aforesaid Government Order reads as follows:-

“ In future Physical Education Teachers, incentive increments will be only in the area of Physical Education and the Director of School Education will identify the relevant courses.”



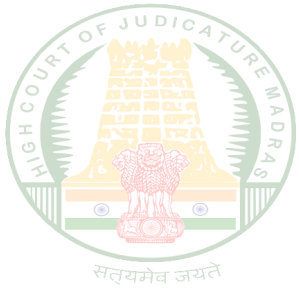
4. G.O.Ms.No.177 dated 13.10.2016 does not lay down anything

new. In fact, the writ petitioner was not given incentive increment by citing G.O.Ms.No.177 dated 13.10.2016. His rights are traceable to the earlier Government Order issued by the Government. In any event, recovery ought not to have been ordered. The learned single Judge rightly approached the issue. Interference with the said order is not called for. This writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (K.RAJASEKAR, J.)
5th August 2025

NCC : Yes / No
Index : Yes / No
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