



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED :03.07.2017

CORAM:

THE HONOURABLE **MRS.JUSTICE J.NISHA BANU**

W.P.(MD).No.1585 of 2013

and

MP (MD) No.1 of 2013

and

WMP (MD) No.4473 of 2016

Arivagam

...Petitioner

Vs.

- 1.The Secretary,  
Government of Tamilnadu,  
School Education Department,  
Fort St.George, Chennai-9.
- 2.The Director of Elementary School Education,  
D.P.1 Compound,  
Nungambakkam,  
Chennai-6.
- 3.The District Elementary Educational Officer,  
North Main Street, Town Hall Road,  
Pudukkottai.
- 4.The Assistant Elementary Educational Officer,  
Thirumayam, Pudukkottai District.
- 5.The Secretary,  
Sri Shanmuga Vilasa Kalasalai,  
Nachandupatti Post,  
Thirumayam Taluk,  
Pudukkottai District.

...Respondents

**PRAYER:** Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 3 to 5 to sanction and disburse the salary of the petitioner from 07.03.2012 onwards.

|                |                               |
|----------------|-------------------------------|
| For Petitioner | : Mr.K.Baalasundharam         |
| For RR 1 to 4  | : Mr.A.Muthukaruppan          |
|                | Additional Government Pleader |
| For R-5        | : No Appearance               |

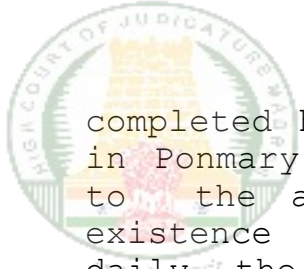
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**O R D E R**

This writ petition has been filed for issuance of writ of Mandamus directing the respondents 3 to 5 to sanction and disburse the salary of the petitioner from 07.03.2012 onwards.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The petitioner would aver among other things that she



completed her Diploma course in Teacher Education in October, 2007 in Ponmary Teacher Training Institute, Pudukkottai and in response to the advertisement issued by the fifth respondent about the existence of the vacancy of Secondary Grade Teacher in Dinamani daily, the petitioner applied for the said post. It is the further case of the petitioner that she participated in the interview on 29.02.2012, in which, she was selected and appointed as Secondary Grade Teacher in the fifth respondent school, as per order Na.Ka.No.5465/Aa2 on 05.03.2012 and till date, she is working in the same school. But, the fifth respondent has not paid the salary to the petitioner on the ground that her appointment was not approved by the third respondent herein.

3. It is the further case of the petitioner that though the fifth respondent school sent the proposal for approval of the third respondent (D.E.E.O), enabling the petitioner to get the grant, ultimately to pay the salary, the said proposal was returned by the fourth respondent without forwarding to the third respondent stating that proposal of the petitioner can be sent only after she passes the Teachers Eligibility Test. Hence, this petitioner has come forward with the present writ petition for the relief stated supra.

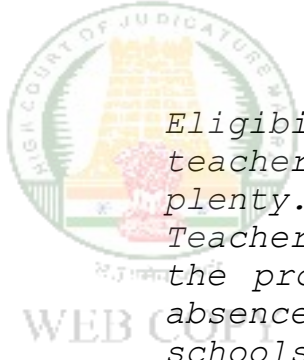
4. The learned counsel for the petitioner would submit that despite the fact that the petitioner is working since 2012, till date, no penny has been paid to the petitioner. She finds it very difficult to eke out her livelihood. Hence, she prayed for appropriate orders.

5. *Per contra*, the learned Additional Government Pleader would submit that first of all, the petitioner was not qualified for the appointment, as she has not passed the Teachers Eligibility Test and hence, her salary has not been paid. Hence, he prayed for the dismissal of the writ petition.

6. Heard the learned counsel for the petitioner as well as learned counsel appearing for the respondents.

7. The issue involved in this writ petition is no more *res integra*. When a similar issue came up for hearing, this Court has already dealt with the same issued and it is useful to refer the Judgement of this Court referred to in a batch of writ petitions made in W.P.(MD)No.2722 of 2013 etc., which reads as follows:-

*"The Secondary Grade Teachers, appointed in the aided school without Teachers Eligibility Test, shall be granted temporary approval for five years and those teachers shall get qualified in Teachers Eligibility Test, within a period of five years from the date of appointment. This order was passed taking note of the fact that no Teachers Eligibility Test hands were available and before 29.04.2013, the teachers would get qualified in Teachers Eligibility Test were appointed in Government schools and even after 29.04.2013, it is stated that only once the Teachers*



Eligibility Test was conducted. But the requirement of teachers in the Government/Local bodies/aided school are in plenty. Therefore, the Government shall hold as many as Teachers Eligibility Test as possible, so as to comply with the provisions of Right to Education Act, 2009 and in the absence of qualifying Teachers Eligibility Test, the aided schools have no other option except to appoint Teachers without Teachers Eligibility Test.

Hence, in the above order, a direction was issued to the second respondent to grant temporary approval to the petitioner from 28.04.2012 within a period of six weeks from the date of receipt of a copy of that order."

8. In the light of the authoritative pronouncement of the judgment cited supra, in my considered opinion, though the petitioner did not qualify in Teachers Eligibility Test, as per the above orders, the petitioner's appointment ought to have been given temporary approval by the respondents and her salary ought to have been paid by the respondents. The petitioner should have given five years time to pass the teachers eligibility test. However, it has not been done so in this case. Needless to mention that the respondents need not have waited for the petitioner to get a formal order from this Court.

9. Apart from that, the order passed by this Court in W.P.(MD) No.2722 of 2013 etc. batch, is squarely applicable to the present case on hand. At this juncture, it is represented that the petitioner is still working in the fifth respondent school and therefore, as per the order passed by this Court, the petitioner is eligible for her salary for the period of five years from the date of her appointment.

10. In the light of the above and by applying the earlier decision of this Court, the writ petition stands allowed. Consequently, the respondents 3 to 5 are directed to sanction and disburse the salary of the petitioner from 07.03.2012 within a period of six weeks from the date of receipt of a copy of this orders. No costs. Connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(A.E)

/True Copy/

Sub Assistant Registrar

To

1.The Secretary,  
Government of Tamilnadu,  
School Education Department,  
Fort St.George, Chennai-9.



2.The Director of Elementary School Education,  
D.P.1 Compound,  
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3.The District Elementary Educational Officer,  
North Main Street, Town Hall Road,  
Pudukkottai.

4.The Assistant Elementary Educational Officer,  
Thirumayam, Pudukkottai District.

+1cc to Mr.K.Baalasundharam Advocate in SR. No.63162

rj2/ssm

JS/JC/SAR.1/25.07.2017/4P-6C

ORDER MADE IN  
**W.P. (MD) .No.1585 of 2013**  
**03.07.2017**