

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.5946 of 2018

The Correspondent
Aided Primary School
Kattumannar Koil
Sri Neduncheri
Cuddalore 608 703

.. Petitioner

-vs-

1. The Director of Elementary Education
College Road
Chennai 600 006
2. The District Elementary Educational Officer
Cuddalore District
3. The Assistant Elementary Educational Officer
Kattumannarkoil
Cuddalore District

4. Thiru N.Govindarajan .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned order passed by the second respondent in Na.Ka.No.0698/A2/2016 dated 19.02.2018 and quash the same and permit the petitioner to fill up the post of Secondary Grade with TET (Teacher Eligibility Test) qualified teacher, on the basis of the proposal submitted by the school on 15.02.2017.

For Petitioner :: Mr.S.N.Ravichandran

For Respondents :: Mrs.P.Rajalakshmi
Additional Government Pleader
for R1 to 3

ORDER

This writ petition has been filed challenging the impugned order dated 19.2.2018 passed by the District Elementary Educational Officer, Cuddalore, in and by which

Mr.N.Govindarajan, Secondary Grade Teacher, the fourth respondent herein has been deployed to the petitioner school, which is a non-minority aided primary school, on the ground that the said teacher has not passed the Teacher Eligibility Test.

2. Mr.S.N.Ravichandran, learned counsel for the petitioner submitted that pursuant to the enactment of Right of Children to Free and Compulsory Education Act, 2009, a pass in the Teacher Eligibility Test has become a mandatory requirement for appointment to the post of Secondary Grade Teacher. Moreover, the Teacher Eligibility Test is the criteria to judge the standard and quality of teachers. This has to be properly ensured by the school as well as the educational authority while making/approving the appointment. While so, the second respondent has wrongly passed the impugned order of deployment posting the fourth respondent, who has not even passed the Teacher Eligibility Test. When the petitioner school is having three sanctioned posts, namely, one as Headmaster and two Secondary Grade Teachers, already approval has been granted for the post of Headmaster and one Secondary Grade Teacher and they are working. Only for the other post of Secondary Grade Teacher, the petitioner has taken all steps to fill up the post in the manner known to law by sending a communication to the Employment Exchange, Cuddalore and also issued a paper advertisement inviting applications from the eligible candidates for the post of Secondary Grade Teacher, based on the order passed by this Court dated 10.11.2016 in W.P.No.7805 of 2010. On receipt of the said communication from the petitioner school, the employment officer asked for an order granting permission to the petitioner to fill up the said post, which is not required as it is a sanctioned post. It is at this stage, the second respondent has passed the impugned order to frustrate the liberty given to the petitioner on 10.11.2016 in W.P.No.7805 of 2010.

3. Opposing the above prayer, the learned Additional Government Pleader for the respondents 1 to 3 submitted that the writ petition is liable to be dismissed, as it is not having any merit. When the fourth respondent was found as surplus in the previous school, he has been now posted in the petitioner school by way of deployment. She also further submitted that even the requirement of a pass in the Teacher Eligibility Test cannot be made applicable to the fourth respondent, as he was appointed on 1.6.2007 as Secondary Grade Teacher, in the light of the Notification issued by the National Council for Teacher Education dated 23.8.2010, which reads as follows:-

"1. Minimum Qualifications.

(i) Classes I-V

(a) Senior Secondary (or its equivalent) with at least 50% marks and 2 year Diploma in

Elementary Education (by whatever name known)
or
Senior Secondary (or its equivalent) with at least 45% marks and 2 year Diploma in Elementary Education (by whatever name known), in accordance with the NCTE (Recognition Norms and Procedure), Regulations 2002
or
Senior Secondary (or its equivalent) with at least 50% marks and 4 year Bachelor of Elementary Education (B.El.Ed)
or
Senior Secondary (or its equivalent) with at least 50% marks and 2 year Diploma in Education (Special Education)
and
Pass in the Teacher Eligibility Test (TET) to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.

4. Teacher appointed before the date of this Notification.-The following categories of teachers appointed for classes I to VIII prior to date of this Notification need not acquire the minimum qualifications specified in Para (1) above."

4. This Court, fully agreeing with the reply given by the learned Additional Government Pleader for the respondents 1 to 3, taking note of the notification issued by the National Council for Teacher Education dated 23.8.2010 in respect of the minimum qualifications, which have been extracted above, is not inclined to accept the contention of the learned counsel for the petitioner that the second respondent ought not to have passed the impugned order deploying the fourth respondent as Secondary Grade Teacher in the petitioner school without a pass in the Teacher Eligibility Test. Accordingly, the writ petition is dismissed. Consequently, W.M.P.Nos.7320 & 7321 of 2018 are also dismissed. No costs.

Ss

Sd/-
Assistant Registrar
/TRUE COPY/

Sub-Assistant Registrar

To

1. The Director of Elementary Education
College Road
Chennai 600 006
2. The District Elementary Educational Officer
Cuddalore District
3. The Assistant Elementary Educational Officer
Kattumannarkoil
Cuddalore District

+1CC to S.N.Ravichandran, Advocate in SR.NO. 20314

+1 CC to Government Pleader Advocate SR.NO. 20490

W.P.No.5946 of 2018

MLT-28/03/2018



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