



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2018

CORAM :

WEB COPY

**THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS. JUSTICE R.THARANI**

WA (MD) Nos.290 to 295 of 2018

S.Sujatha Roseline	... Appellant in W.A. 290/2018
P.Seline Latha	... Appellant in W.A. 291/2018
S.Helen Rose Shyla	... Appellant in W.A. 292/2018
A.Chithiraikumar	... Appellant in W.A. 293/2018
D.Jebachitra	... Appellant in W.A. 294/2018
J.Jebasingh	... Appellant in W.A. 295/2018

Versus

1.The State of Tamil Nadu
Rep. By its Secretary,
Department of School Education,
Fort St. George, Chennai - 9.

2.The Director of Elementary Education,
College Road, Chennai - 6.

3.The District Elementary Educational Officer,
Tuticorin, Tuticorin District.

4.The Additional Assistant Elementary
Educational Officer,
Sathankulam, Tuticorin District.

5.The Correspondent,
R.C.Primary School,
Thuverkulam,
Tuticorin District.

... Respondents in W.A.290/18

1.The State of Tamil Nadu
Rep. By its Secretary,
Department of School Education,
Fort St. George, Chennai - 9.



2.The Director of Elementary Education,
College Road, Chennai - 6.

3.The District Elementary Educational Officer,
Tuticorin, Tuticorin District.

4.The Assistant Elementary Educational
Officer,
Alwarthirunagari @ Thenthiruperai,
Tuticorin District.

5.The Correspondent,
R.C. St. Aloysius Primary School,
Pirandakulam,
Tuticorin District.

... Respondents in W.A.291/18

1.The State of Tamil Nadu
Rep. By its Secretary,
Department of School Education,
Fort St. George, Chennai - 9.

2.The Director of Elementary Education,
College Road, Chennai - 6.

3.The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.

4.The Assistant Elementary
Educational Officer,
Vallioor, Tirunelveli District.

5.The Correspondent,
St. Teresa's RC Middle School,
Pushpavanam,
Thirunelveli District - 627 109. ... Respondents in W.A.292/18

1.The State of Tamil Nadu
Rep. By its Secretary,
Department of School Education,
Fort St. George, Chennai - 9.

2.The Director of Elementary Education,
College Road, Chennai - 6.

3.The District Elementary Educational Officer,
Tuticorin, Tuticorin District.

4.The Assistant Elementary
Educational Officer,
Udangudi Union, Tuticorin District.



5.The Correspondent,
TNDTA Primary School,
Poolikudieruppu,
Udangudi Union,
Tuticorin District.

... Respondents in W.A.293/18

1.The State of Tamil Nadu
Rep. By its Secretary,
Department of School Education,
Fort St. George, Chennai - 9.

2.The Director of Elementary Education,
College Road, Chennai - 6.

3.The District Elementary Educational Officer,
Tuticorin, Tuticorin District.

4.The Additional Assistant Elementary
Educational Officer,
Udangudi Union, Tuticorin District.

5.The Correspondent,
TNDTA BAM Primary School,
Vellalanvilai,
Tuticorin District.

... Respondents in W.A.294/18

1.The State of Tamil Nadu
Rep. By its Secretary,
Department of School Education,
Fort St. George, Chennai - 9.

2.The Director of Elementary Education,
College Road, Chennai - 6.

3.The District Elementary Educational Officer,
Tuticorin, Tuticorin District.

4.The Additional Assistant Elementary
Educational Officer,
Udangudi Union, Tuticorin District.

5.The Correspondent,
TNDTA Primary School,
Potharakkanvilai,
Tuticorin District.

... Respondents in W.A.295/18

Writ Appeals filed under Clause 15 of Letters Patent, to set aside the order dated 14.07.2016 made in W.P.(MD)Nos.18855 and 18856 of 2015 and order dated 02.08.2016 made in W.P.(MD) Nos.21893 of 2015 and 13286 of 2016 and order dated 19.08.2016 made in W.P.(MD) Nos.14829 and 14830 of 2016 on the file of this Court.



Prayer in WP(MD). 18855/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 4th respondent herein in Na.Ka.No 322/Aa1/15 dated 09.07.2015 quash the same, and further direct the 3rd respondent herein to approve the petitioners appointment as Secondary Grade Teacher in the 5th respondent school w.e.f., 14.09.2012 with salary and other attendant benefits.

Prayer in WP(MD). 18856/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 4th respondent herein in O.Mu.No.836/Aa1/15 dated 01.08.2015 quash the same, and further direct the 3rd respondent herein to approve the petitioners appointment as Secondary Grade Teacher in the 5th respondent school w.e.f. 19.11.2012 with salary and other attendant benefits.

Prayer in WP(MD). 21893/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 4th respondent herein AEE0 in O.Mu. 2168/Aa1/2015 dated 16.11.2015 quash the same, and further direct the 3rd respondent herein to approve the petitioner' s appointment as BT Assistant (Science) in the 5th respondent school w.e.f., 19.07.2013 with salary and other attendant benefits.

Prayer in WP(MD). 13286/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 3rd respondent herein in O.Mu.No.3508/Aa2/2012 dated 12.12.2012, quash the same and further direct the 3rd Respondent herein to approve the petitioner's appointment as Secondary Grade Teacher in the 5th respondent school w.e.f. 09.11.2011 onwards with salary and other attendant benefits.

Prayer in WP(MD). 14829/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 4th respondent herein in A.Thi.Mu.No.374/A1/2012 dated 04.01.2013, quash the same, and further direct the 3rd respondent herein to approve the petitioners appointment as secondary Grade Teacher in the 5th respondent school from 01.03.2012 onwards with salary and other attendant benefits.

Prayer in WP(MD). 14830/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 3rd respondent herein to approve forthwith the appointment of petitioner as secondary Grade Teacher in the 5th respondent school from 03.07.2012 onwards with salary and other attendant benefits without insisting pass in Teacher Eligibility Test.

In all appeals
For Appellants

: Mr.Ajith Geethan

For Respondents

: Mr.V.R.Shanmuganathan,
Spl.G.P. For RR1 to 4

COMMON JUDGMENT

(Judgment of the Court was delivered by T.S.SIVAGNANAM, J)

These appeals filed by the writ petitioners are directed against the three sets of common order passed in the writ petitions. Since the prayer sought for by the appellants in the writ petitions are identical, we have heard the appeals together and they are disposed of by this common judgment.

2. So far as the writ appeals in W.A.(MD) Nos.291, 293, 294, 295 of 2018 are concerned, the learned counsel for the appellants submitted that the appointments of the respective appellants have been approved from the date of their appointment. The said submission is placed on record and these appeals stand disposed of accordingly.

3. So far as the writ appeals in W.A.(MD) Nos.290 and 292 are concerned, the issue is clearly covered by the decision of the Division Bench in W.P.(MD) No.898 of 2017 dated 30.06.2017 (T.Susila Vs. State of Tamil Nadu and others), to which one of us (T.S.SIVAGNANAM, J.) was a party. The said writ appeal was allowed following an earlier decision of the W.A.(MD) No.1438 of 2016 (Helen Samraj Vs. The Secretary to Government, Department of School Education), by judgment dated 25.11.2016. The operative portion of the said Judgment reads as follows:

7. It is relevant to extract the following paragraphs of the judgment of the Division Bench of this Court (cited supra):

52. However, the Government, before issuing G.O.Ms.No.181 dated 15.11.2011, lost sight of one important fact, namely imposition of a condition on the Teachers, who were appointed prior to the issue of G.O., in non minority and



minority Schools, both aided and unaided, to qualify themselves with TET within a period of five years, in order to continue in service, would cause great hardship to them. Moreover, if the Teachers who have put in more number of years of service, could not pass TET within five years, their continuation in service would be in jeopardy. Further, it is seen that the percentage of pass in the TET examination conducted in 2012 and 2013 was very minimal.

...

56. We are, therefore, of the considered view that the Government may seek a clarification from the NCTE, in the light of what is stated in the preceding paragraph, whether the prescription of minimum qualification of TET can be made applicable prospectively for the Teachers who were appointed subsequent to the date of the issue of G.O., in both non minority and minority institutions and not retrospectively as the same would cause undue hardship to the Teachers who have been serving for a quite a long time. ...

58. In our opinion, non qualifying in TET by the Teachers already in service should not defeat the object of the Government to provide quality and standard education and therefore, the Government may, in the alternative, conduct a refresher course and also some interactive 43 sessions during annual vacation, in order to ensure and enhance the quality of education. ...

60. In the light of the above, we are of the view that the Government cannot insist upon the minority institution, both aided or unaided, to abide by any Regulation framed under the provisions of the RTE Act. Therefore, we hold that G.O.Ms.No.181, School Education (C2) Department dated 15.11.2011 issued by the Government of Tamil Nadu, is not applicable to the minority institutions. Similarly, G.O.Ms.No.76 dated 18.3.2015 issued by the Government of Puducherry, is also not applicable to the minority institutions.

...

62. However, keeping in mind the larger interest in which the Government has issued the above G.Os., this Court feels that the minority institutions may also consider conducting a refresher course and also some interactive sessions to all the Teachers during annual vacation, in order to ensure and improve the quality of Teachers.?

8. In the light of the above said judgment, the Writ Appeal is allowed and the impugned order, which was subject matter of challenge in W.P. (MD) No.15958 of 2015 as well as the impugned order passed in W.P. (MD) No.15958 of 2015 dated 14.07.2016 are set aside. However, in the



circumstances of the case, there shall be no order as to cost."

4. Thus, following the above rendered decision, these writ appeals are allowed as prayed for. No costs.

Sd/-

Assistant Registrar (C.O)

/True Copy/

Sub-Assistant Registrar

To

1. The Secretary, The State of Tamil Nadu
Department of School Education,
Fort St. George, Chennai - 9.
2. The Director of Elementary Education,
College Road, Chennai - 6.
3. The District Elementary Educational Officer,
Tuticorin, Tuticorin District.
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Sathankulam, Tuticorin District.
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Alwarthirunagari @ Thenthirupera, Tuticorin District.
6. The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.
7. The Assistant Elementary Educational Officer,
Vallioor, Tirunelveli District.
8. The Assistant Elementary Educational Officer,
Udangudi Union, Tuticorin District.

+2ccs to M/s.A.Ajith Geethan, Advocate, SR.Nos.50319 and 50320

Arul

RL/11C/7P/SV/MMS/SAR2/7/3/2018

Judgment made in

WA (MD) Nos.290 to 295 of 2018

21.02.2018