



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P (MD) No.10196 of 2018

and

W.M.P. (MD) Nos.9252 and 9253 of 2018

M.A.Stephen Sundar Singh

... Petitioner

Vs.

1. The Secretary to Government,
Education Department,
State of Tamil Nadu,
Secretariat,
St. Fort George, Chennai-9.

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

3. The District Elementary Educational Officer,
Tuticorin.

4. The Assistant Elementary Educational Officer,
Kovilpatti, Tuticorin District.

5. The Correspondent,
TNDTA Primary and Middle School,
Kovilpatti, Tuticorin District.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the orders passed by the 3rd respondent in his proceedings in Na.Ka.No.4176/A3/2013 dated 20.04.2018 and quash the same and consequently direction may be issued to respondents to approve the petitioner's appointment as Secondary Grade Teacher in 5th respondent school from the date of the joining on 02.07.2012 with all service and monetary benefits by sanctioning grant within stipulated time.

For Petitioner : Mr.T.A.Ebenezer

For Respondents : Mrs.S.Srimathy, Spl.G.P.
For RR1 to 4



O R D E R

The prayer sought for herein is for a Writ of Certiorarified Mandamus, calling for the records relating to the orders passed by the 3rd respondent in his proceedings in Na.Ka.No.4176/A3/2013 dated 20.04.2018 and quash the same and consequently direction may be issued to respondents to approve the petitioner's appointment as Secondary Grade Teacher in 5th respondent school from the date of the joining on 02.07.2012 with all service and monetary benefits by sanctioning grant within stipulated time.

2. Heard Mr.T.A.Ebenezer, learned counsel for the petitioner and Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents.

3. The fifth respondent school is a minority aided private school, where, in a sanctioned post of Secondary Grade Teacher, one Mrs.P.Emimal Rose Suganthi was working and on superannuation, she retired from service on 31.06.2012. Therefore, the said post became vacant from 01.07.2012, wherein, the petitioner was appointed on 02.07.2012 and he had been working in the fifth respondent school.

4. When the proposal for approval of the said appointment made to the respondents, the same was not considered or approved. There had been a litigation, wherein, an order was passed by this Court that the petitioner shall secure pass in Teachers Eligibility Test (TET) before 31.03.2015 and if he had not secured pass before 31.03.2015, he has to vacate the office and the person, who has TET qualification shall be appointed in that place. Subsequently, the issue, to hold TET qualification by the teachers appointed or to be appointed in a recognised minority school, came up for consideration before this Court and in the judgment of this Court reported in **(2016) 4 L.W. 841 - The Secretary to Government, Government of Tamil Nadu and Others Vs. S.Jeyalakshmi and another**), this Court has held that the teachers appointed or working in minority institutions need not have qualification of TET. Since that legal position has been declared by this Court in the said decision, the requirement of TET for the teachers now appointed and sought for approval on the fifth respondent school need not have TET qualification as it is minority institution.

5. When that being the position, the petitioner's appointment has once again been rejected without approval by the impugned proceedings dated 20.04.2018 stating that in earlier order, those who did not qualify in TET by 31.03.2015 should vacate their office as has been ordered and therefore, based on that judgment, since the petitioner has not qualified in TET, even in the TET examination conducted in the year 2017, his appointment shall not be approved and accordingly, it was rejected. Challenging the

said order, the present writ petition has been filed.

6. The learned counsel appearing for the petitioner would submit that since the issue has already been concluded by the said judgment cited supra and admittedly fifth respondent school is a minority school, where the petitioner was appointed in the sanctioned post in the year 2012, the insistment of TET qualification is no more a valid requirement. Therefore, on that ground, if the appointment of the petitioner is rejected through the impugned order, the same is liable to be interfered with.

7. I have heard the learned Special Government Pleader appearing for the official respondents in this regard, who would submit that the issue raised in this writ petition is covered by the decision of this Court reported in **(2016) 4 L.W. 841 - The Secretary to Government, Government of Tamil Nadu and Others Vs. S. Jeyalakshmi and another)**. Since the fifth respondent school is a minority institution, such a requirement of having TET qualification by the teacher to be appointed in such minority school is no more required to be an essential qualification and therefore, on this ground, the impugned order should not have been passed and therefore, suitable order can be passed.

8. I have heard the submissions made by the learned counsel appearing for both sides.

9. It has been categorically held in the decision reported in **(2016) 4 L.W. 841 - The Secretary to Government, Government of Tamil Nadu and Others Vs. S. Jeyalakshmi and another)** that teachers for minority institutions need not have the qualification of TET. Since the said reasoning once again has been given by the respondents in the impugned order, in the opinion of this Court, the same is untenable and therefore, the same is liable to be interfered with.

10. Accordingly, the impugned order is quashed and the respondents are directed to approve the appointment of the petitioner from the date of his original appointment and on making such approval, it is needless to mention that the petitioner shall be entitled to claim salary from his original appointment.

11. With this direction, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl side)

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

Sub Assistant Registrar



To

1. The Secretary to Government,
Education Department,
State of Tamil Nadu,
Secretariat,
St. Fort George, Chennai-9.

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

3. The District Elementary Educational Officer,
Tuticorin.

4. The Assistant Elementary Educational Officer,
Kovilpatti, Tuticorin District.

+ 1 cc TO Mr.T.A.Ebenezer , Advocate in SR No. 64751

+ 1 cc TO The Special Government Pleader in SR No. 65035

Arul

AE/SB/SAR3/18.06.2018/4P/7C

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