

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.31034 of 2019
and
WMP No. 31131 of 2019

V.Ravi

... Petitioner

Vs.

1. The Director of School Education,
DPI Campus, College Road,
Chennai 600 006.
2. The Cheif Educatinal Officer,
Thirupur District, Thiruppur.
3. The District Educational Officer,
Thiruppur Education District,
Thiruppur District.
4. The Secretary,
Manickaswamy Naidu Higher
Secondary School,
Govindapuram 638 657
Dharapuram Taluk,
Thiruppur District.

... Respondents

Prayer: Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus forbearing the respondents from insisting passing of Teacher Eligibility Test (TET) for the petitioner appointed as B.T.Assitant (History) in fourth respondent school based on the process of selection initiated prior to 23.08.2010 and consequently direct the respondents to continue to sanction annual increments and other service benefits to the petitioner.

For Petitioner : Mr.G.Sankaran
For Respondents : Mr.C.Munusamy, Spl. GP

ORDER

- 1.This writ petition has been filed by the petitioner seeking for issuance of a Writ of Certiorari of Mandamus, to forbear the respondents from insisting passing of Teacher Eligibility Test (TET) for the petitioner appointed as B.T.Assistant (History) in fourth respondent school based on the process of selection initiated prior to 23.08.2010 and consequently direct the respondents to continue to sanction annual increments and other service benefits to the petitioner.
- 2.Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.
- 3.The case of the petitioner is that the petitioner was qualified with B.A.(History), B.Ed., eligible for appointment to the post of B.T. Assistant (History). The fourth respondent school is a Government Aided School Governed by the Tamil Nadu Recognised Private Schools (Regulation) Act and Rules. In the fourth respondent school, a vacancy to the post of B.T. Assistant (History) arose due to promotion of erstwhile incumbent. As per the proceedings of second respondent dated 04.07.2010 the fourth respondent was granted permission to fill up the post of B.T. Assistant (History). The fourth respondent school has issued a Notification through paper advertisement on 29.07.2010 and 05.10.2010 inviting applications for the appointment to the post of B.T. Assistant (History) and other teaching posts and an Interview was conducted on 14.10.2010. The petitioner also submitted his application for appointment to the post of B.T. Assistant (History) and participated in the selection. The petitioner was selected for appointment to the post of B.T. Assistant (History). He was issued with an order of appointment by the Secretary of the fourth respondent school vide order dated 14.10.2010 and joined the post of B.T. Assistant (History) on the same day. The said appointment was approved by the third respondent vide order dated 04.01.2011.
- 4.The grievance of the petitioner is that the petitioner has not been paid with annual increment and other service benefits and thereby, he continued to draw entry level salary till date. It is found that he was not sanctioned with annual increment and other service benefits on the premise that he is required to pass Teacher Eligibility Test (TET) in order to get annual increment and other service benefits. Aggrieved by the same the petitioner has come forward with the present writ petition.
- 5.The learned counsel for the petitioner would submit that after advent of Right of Children to Free and Compulsory Education

Act, 2009 (RTE Act), with effect from 01.04.2010, the National Council for Teacher Education (NCTE) appointed as academic authority under Sec.23(1) of the Act, issued Notification dated 23.08.2010 prescribing minimum qualification for a person to be eligible for appointment of a teacher for taking Classes 1 to 8. As per Notification, it is made clear that if an appropriate Government or Local authority or a School has issued advertisement to initiate process of appointment of teachers prior to the date of Notification dated 23.08.2010, the said appointments may be made in accordance with NCTE Regulation 2001. Therefore, as per NCTE Notification, passing of TET is not required in respect of teachers appointed based on the selection initiated by the school concerned prior to the date of Notification.

- 6.The learned counsel would further submit that Teacher Recruitment Board (TRB) also issued Corrigendum Notification dated 07.03.2012 by granting exemption to persons whose appointment process has been initiated prior to NCTE Notification dated 23.08.2010 and the Joint Director of School Education (Personnel) also issued Proceedings dated 08.11.2017 by making it clear that in respect of teachers who have been appointed after G.O.Ms.No.181 dated 15.11.2011 for which the process of selection was initiated prior to 23.08.2010, the passing of TET qualification is not required. Therefore, the learned counsel for the petitioner would implore this Court to grant relief as sought for in the present writ petition.
- 7.The learned Special Government Pleader appearing for the respondents conceded to the request as submitted by the learned counsel appearing for the petitioner. The learned counsel would submit that the petitioner is not entitled, unless he passed the Teacher Eligibility Test. However, this Court may issue if the petitioner is eligible, direction to the respondents to consider and dispose of the representation made by the petitioner, the same would be complied with and the representation would be disposed of in accordance with law.
- 8.Admittedly, in this case the petitioner has been appointed in the post of B.T. Assistant (History) on 14.10.2010 and her appointment was also approved by the third respondent vide proceedings dated 04.01.2011. As rightly submitted by the learned counsel for the petitioner that as per the notification dated 23.08.2010, issued by the NCTE, it is made clear that if an appropriate Government or Local authority or a School has issued advertisement to initiate process of appointment of teachers prior to the date of Notification dated 23.08.2010, the said appointment may be made in accordance with NCTE Regulation 2001. Therefore, as per claims of NCTE notification passing of TET is not required in respect of the petitioner

herein since her appointment was made as even prior to the notification i.e. 23.08.2010 selection process of her appointment was initiated by issuing a paper advertisement on 29.07.2010.

9.Further, in the light of the proceedings dated 08.11.2011 of the Joint Director of School Education (Personnel) passing of TET by the petitioner is not required, since she has been appointed after GO.Ms.No.181 dated 15.11.2011, and her selection process was initiated prior to 23.08.2018 as the advertisement was issued on 29.07.2010. Further time and again, this Court has held that appointments made based on the selection initiated prior to 23.08.2010, the TET cannot be necessitated.

10.In view of the above, the petitioner is permitted to make a representation to the respondents seeking to sanction Annual Increments and other service benefits without necessitating upon passing of TET by the petitioner enclosing relevant orders of this Court including the direction order of this Court, within a period of two weeks from the date of receipt of copy of this order and any such representation is being made by the petitioner pursuant to this order, the respondents are directed to consider and dispose of the same by passing appropriate orders therein as expeditiously as possible preferably within a period of four weeks thereafter.

11.With the above direction, the Writ Petition is disposed of. No costs. consequently, connected Miscellaneous petition is closed.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

To

1.The Director of School Education,
DPI Campus, College Road,
Chennai 600 006.

2.The Chief Educational Officer,
Thirupur District, Thiruppur.

3.The District Educational Officer,
Thiruppur Education District,
Thiruppur District.

4.The Secretary,
Manickaswamy Naidu Higher
Secondary School,
Govindapuram 638 657
Dharapuram Taluk,
Thiruppur District.

+1 CC to Mr.G.Sankaran, Advocate sr 91621.

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SKV(CO)
SP(19/12/2019)



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