



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.5719 of 2017

and

WMP(MD)No.4577 of 2017

D.R.Arul Mani Kamatchi

... Petitioner

Vs.

1.The Chief Educational Officer,
O/o.the Chief Educational Officer,
Ramanathapuram District.

2.The District Educational Officer,
O/o.the District Educational Officer,
Paramakudi,
Ramanathapuram District.

... Respondents

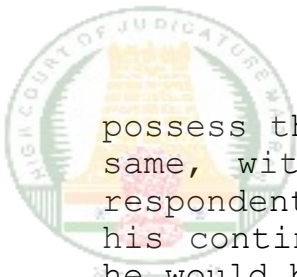
Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus for a direction forbearing the respondents from terminating the service of the petitioner on the ground of not passing Teacher Eligibility Test and from insisting the petitioner to pass the Tamil Nadu Teachers Eligibility Test in violation of the judgment of the Hon'ble Division Bench of Madras High Court in Secretary to the Government VS. S.Jeyalakshmi reported in 2016 (5) CTC 639 = 2016 (7) MLJ 155.

For Petitioner : Mr.T.Lajapathi Roy
For R1 & R2 : Mrs.S.Srimathy,
Special Government Pleader

ORDER

The relief sought in this writ petition is to issue a mandamus, forbearing the respondents from terminating the service of the petitioner for want of Teacher Eligibility Test (TET) qualification and insisting the petitioner to pass TET.

2.According to the petitioner, he was appointed in the post of B.T. Assistant in K.H.N. Higher Secondary School, Perunaali, Ramanathapuram District on 28.02.2011 and his appointment was approved by the District Educational Officer vide proceedings in Na.Ka.No.1492/A2/2011 dated 23.02.2011. Thereafter, the Government issued G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011, wherein, it was specified that the teachers, who do not



possess the minimum qualification of pass in TET, shall acquire the same, within a period of five years. Pursuant to the same, the respondents insisted the petitioner to get qualified in TET, for his continuance in the said post of B.T. Assistant, failing which, he would be terminated from service. Hence, this writ petition.

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3. The learned counsel for the petitioner submitted that in similar circumstances, this Court has extensively analysed the issue involved herein and held in favour of the petitioners therein, vide order dated 08.03.2019 in WP (MD) No.5626/2017 etc. batch. The relevant paragraphs of the said order are reproduced hereunder:

"9. From the aforesaid Government Orders and the decisions rendered by the Division Bench of this Court, it is manifestly clear that (i) TET shall be conducted by the Teachers Recruitment Board in accordance with the guidelines framed by the National Council for Teacher Education; it has prescribed a set of guidelines for the conduct of TET in the Annexure; it has also specified that the teachers working in unaided private schools are required to pass TET within a period of five years and the Secondary Grade Teachers should also pass TET forthwith, apart from the minimum qualifications; and further, it is mandatory for all the State Governments to recruit Secondary Grade and B.T. Teachers only by conducting a TET. (ii) As per the decision rendered by the Division Bench of this Court dated 24.08.2016, G.O.Ms.No.181 is not applicable to the minority institutions; and (iii) Another Division Bench of this Court in W.A.No.1126/2016 etc. batch, vide order dated 24.01.2017, held that the teachers, who have been appointed subsequent to the issuance of the G.O., were granted one opportunity to appear for the TET to be conducted by the Teachers Recruitment Board and in the event of their passing in TET, their appointments shall be approved, else they have no other option but to quit the service/ousted from service.

10. However, there is no cut off date specified in the said G.O.Ms.No.181, with regard to acquiring the qualification of pass TET to continue in service as B.T Assistants /Secondary Grade Teachers, who are working as such in the respondent Schools. In this regard, a cursory glance at Clause (5) of the notification dated 23.08.2010 and its amended notification dated 29.07.2011 issued by the NCTE, the contents of which are reproduced at paragraph nos.8.2 and 8.4 above, would reveal that if the process of appointment of teachers was initiated prior to the



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date of notification by issuing advertisement, such appointments have to be made in accordance with NCTE (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001 and the same was amended with effect from 29.07.2011. As per the said NCTE Regulations 2001, there is no qualification prescribed with regard to possession of TET certificate, for appointment to the post of B.T Assistant and Secondary Grade Teachers. The qualification of passing TET was first introduced by the notification dated 23.08.2010 and it was amended vide notification dated 27.09.2011. Thus, it could be inferred that the cut off date for acquiring the TET qualification is 27.09.2011 and the teachers, who were appointed prior to that date need not pass TET and even in the case of the teachers who were appointed after that date, if the advertisement to initiate the process of appointment of teachers was made prior to that date, then, their appointments also can be in accordance with the NCTE Regulations 2001 and they need not acquire the TET qualification.

11. In the above backdrop, the subject matter in issue to be determined is as to whether the petitioners were appointed before the cut off date and they are entitled to get exemption from passing TET. Concededly, some of the petitioners were appointed, after issuance of notification and prior permission was obtained from the Chief Educational Officers, whereas, some of the petitioners were appointed against the sanctioned vacancies and the same was approved subsequently by the District Educational Officers/District Elementary Educational Officers and thus, the appointment of all the petitioners was approved by the competent authorities. To appreciate the same, the details of the appointment of the petitioners, as culled out from the materials placed on record, are tabulated as under:

xxx

xxx

xxx

It is limpid from the above table that all the petitioners were appointed before the cut off date i.e, 27.09.2011. As such, they are entitled to seek exemption from acquiring TET qualification.

12. In the ultimate analysis, this Court has no hesitation to hold that the petitioners are entitled to seek exemption from passing TET, as they were appointed prior to the cut off date and the respondents are directed not to insist TET certificate from the petitioners as a pre-condition for their continuance in service as B.T. Assistants.



13. Accordingly, all the writ petitions are allowed as prayed for. No costs. Consequently, connected Miscellaneous Petitions are closed."

Placing reliance on the aforesaid order, the learned counsel prayed for a similar order in this writ petition as well, as the petitioner herein was appointed on 28.02.2011 and his appointment was also approved by the District Educational Officer on 23.02.2011 i.e., before the crucial date for acquiring TET certificate i.e., 27.09.2011.

4. The learned Special Government Pleader appearing for the respondents has not disputed the aforesaid order cited on the side of the petitioner.

5. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and also following the aforesaid order dated 08.03.2019 passed in the batch of writ petitions, this Court is inclined to dispose of this writ petition in the same lines as extracted in para 3, supra.

6. Accordingly, this writ petition is disposed of, directing the respondents not to insist TET certificate from the petitioner as a pre-condition for his continuance in service as B.T. Assistant. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Chief Educational Officer,
O/o. the Chief Educational Officer,
Ramanathapuram District.

2. The District Educational Officer,
O/o. the District Educational Officer,
Paramakudi, Ramanathapuram District.

+1CC TO MR. T. LAJAPATHI ROY, Advocate Sr. No. 55248

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR. No. 55115

W.P (MD) No. 5719 of 2017

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