



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.03.2019
CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

WEB COPY

W.P (MD) Nos. 7108 and 7109 of 2017
and
WMP (MD) Nos. 5620 and 5621 of 2017

M.R.Kathiravan ... Petitioner in WP (MD) No. 7108 of 2017
A. Ananthakrishnan ... Petitioner in WP (MD) No. 7109 of 2017

Vs.

1. The Chief Educational Officer,
O/o. The Chief Educational Officer,
Sivagangai District.

2. The District Educational Officer,
O/o. the District Educational Officer,
Sivagangai,
Sivagangai District.

... Respondents in both Wps

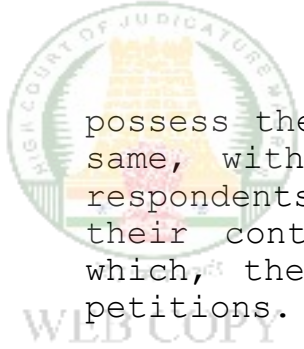
Prayer: Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus forbearing the respondents from terminating the service of the petitioner on the ground of not passing Teacher Eligibility Test and from insisting the petitioner to pass the Tamil Nadu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

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

COMMON ORDER

The relief sought in these writ petitions is to issue a mandamus, forbearing the respondents from terminating the services of the petitioners for want of Teacher Eligibility Test (TET) qualification and insisting the petitioners to pass TET.

2. According to the petitioners, they were appointed in the post of B.T. Assistant in S.B.D.V. High School, Sholapuram, Sivagangai District on 05.03.2011 and their appointment was approved by the District Educational Officer vide proceedings in Na Ka No. 1834/A4/2011 dated 12.05.2011. 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 petitioners to get qualified in TET, for their continuance in the said post of B.T. Assistants, failing which, they would be terminated from service. Hence, these writ petitions.

3. The learned counsel for the petitioners 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 date of notification by issuing advertisement, such



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 these writ petitions as well, as the petitioners herein were appointed on 05.03.2011 and their appointment was also approved by the District Educational Officer on 12.05.2011 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 petitioners.

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 these writ petitions in the same lines as extracted in para 3, supra.

6. Accordingly, these writ petitions are disposed of, directing the respondents not to insist TET certificate from the petitioners as a pre-condition for their continuance in service as B.T. Assistants. No costs. Consequently, connected Miscellaneous Petitions are closed.

sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar (CS)

To

1. The Chief Educational Officer,
O/o. The Chief Educational Officer,
Sivagangai District.

2. The District Educational Officer,
O/o. the District Educational Officer,
Sivagangai,
Sivagangai District.

+1 CC to SPL GP (SR-55117[F] dated 19/03/2019)

+2 CC to M/s. T. LAJAPATHI ROY, Advocate SR-55249, 55250

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