

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2020

CORAM

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.P.Nos.9307 to 9309 of 2014
and M.P. Nos. 1,1 & 1 of 2014

1. R.Durga ..Petitioner in W.P. No. 9307 of 2014
2. V.Tharani ..Petitioner in W.P. No. 9308 of 2014
3.E.Elavarasi ..Petitioner in W.P. No. 9309 of 2014

Vs

1. The State of Tamil Nadu,
rep. by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai - 600009.

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

3.The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600006.

4. The Chairman,
The Teacher Recruitment Board,
4th Floor, E.V.K.Sampath Building,
DPI Campus, College Road,
Chennai- 600006.

.. Respondents in all WPs

Prayer in W.P.No.9307 of 2014: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to select and appoint the petitioner (12TE24156012) to the post of BT Assistant (Social Science) for the taking classes VI to X based on eligible marks secured by the petitioner in Teacher Eligibility Test conducted on 14.10.2012 by considering B.Com. Degree as eligible qualification as per National Council for Teacher Education Notification issued in F.No.61-1/2011/ NCTE (N&S) dated

29.7.2011 within a time frame to be fixed by this court.

Prayer in W.P.No.9308 of 2014: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to select and appoint the petitioner (12TE25209683) to the post of BT Assistant (Social Science) for the taking classes VI to X based on eligible marks secured by the petitioner in Teacher Eligibility Test conducted on 14.10.2012 by considering B.Com. Degree as eligible qualification as per National Council for Teacher Education Notification issued in F.No.61-1/2011/ NCTE (N&S) dated 29.7.2011 within a time frame to be fixed by this court.

Prayer in W.P.No.9309 of 2014: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to select and appoint the petitioner (12TE23351476) to the post of BT Assistant (Social Science) for the taking classes VI to X based on eligible marks secured by the petitioner in Teacher Eligibility Test conducted on 14.10.2012 by considering B.Com. Degree as eligible qualification as per National Council for Teacher Education Notification issued in F.No.61-1/2011/ NCTE (N&S) dated 29.7.2011 within a time frame to be fixed by this court.

For Petitioner : M/s.G.Sankaran
(in all WPs)

For Respondents : Mrs. P.Kavitha, GA
(in all WPs)

COMMON ORDER

These Writ Petitions are taken up and disposed of by way of common order, since the issue involved in these Writ Petitions is common.

These Writ Petitions are filed by the respective petitioners to direct the respondents to select and appoint the petitioners to the post of BT Assistant (Social Science) for the taking classes VI to X based on eligible marks secured by the petitioner in Teacher Eligibility Test conducted on 14.10.2012 by considering B.Com. Degree as eligible qualification as per National Council for Teacher Education Notification issued in F.No.61-1/2011/ NCTE (N&S) dated 29.7.2011 within a time frame to be fixed by this court.

2. Brief facts of the case:

2.1 The writ petitioner in W.P.No. 9307 of 2014 has acquired B.Com degree in the year 1994 and M.Com degree in the

year 1997, and she completed B.Ed in the year 2008.

2.2 The writ petitioner in W.P.No. 9308 of 2014 has acquired B.Com degree in the year 2003 and M.Com degree in the year 2008 and she completed B.Ed in the year 2009.

2.3 The writ petitioner in W.P.No. 9309 of 2014 has acquired B.Com degree in the year 2000 and M.Com degree in the year 2002 and she completed B.Ed in the year 2005.

2.4 The 4th respondent Board called for an application for appointment to the post of BT Assistant (Social Science). At the time notification issued by the respondent, B.Com degree is not eligible for the appointment to the post of B.T Assistant. Several representations were made by the petitioners to include B.Com graduates as eligible for the selection to the post of B.T.Assistant. Based on the same, the NCTE has issued Notification dated 10.06.2011 by amending the earlier notification dated 23.08.2010 and included B.Com., degree as eligible degree for the appointment to the post of B.T.Assistant. Pursuant to the same, the Central Government had issued notification to all the States to include B.Com graduate as eligible for appearing in the TET for appointment to the post of B.T.Assistant. Based on the same, the State Government had passed orders in G.O. No. 181 dated 15.11.2011 by appointing TRB is a nodal agency for conducting TET. Subsequently, as per the Notification dated 07.03.2012 issued by the TRB, the petitioners herein have applied for the post of B.T.Assistant and they were allowed to participate in the selection process. At the time of counseling, the authorities concerned had informed that they are eligible for appointment to the said post. But the petitioners' names were not included in the provisional selection list published by the 4th respondent. Thereafter, the petitioners approached the respondent and they were informed that the B.Com degree is not eligible qualification for the appointment to the post of the B.T Assistant. Challenging the same, present writ petitions are filed.

3. Heard the learned counsel appearing for the petitioners and the learned Government Advocate appearing for the respondents and perused the documents available on record.

4. The learned counsel for the petitioners has contended that pursuant to the declaration of marks in TET, the 4th respondent has conducted selection to the post of Secondary Grade Teacher and BT Assistant Teacher by adopting the mode of selection by granting weightage marks as envisaged in G.O. Ms.No. 36 dated 14.09.2012. Accordingly, the petitioners were called for to attend Certificate Verification conducted by the 4th respondent in which the writ petitioners have participated and produced all the certificates as required by the Board. Even the self Declaration Form issued by the Board, in the

relevant column to furnish the details of the B.Com qualifications acquired by the petitioners. Therefore, it is amply clear that based on the amended notification issued by the NCTE, the State Government has proceeded to consider B.Com., Degree holder as eligible for appearing for eligibility test and qualified for appointment to the post of B.T. Assistant. Accordingly B.Com degree Graduates permitted to appear for the examination and further allowed to participate in the Certificate Verification to furnish the B.com, Degree certificate as mentioned in the relevant column of the application. Even during certificate verification, the petitioner was informed by the authorities concerned that the petitioners are eligible for appointment to the post of BT Assistant (Social Science). But their names were not included in the selection list for the reason that B.Com degree is not eligible qualification for appointment to the said post is illegal, and against the Article 14 and 16 of the Constitution of India.

5. Per contra, the learned Government Advocate appearing for the respondents submitted that as per the information furnished by the petitioners in the OMR application, they were allowed to write TET Paper-II in October 2012. They have passed the TET Paper-II and called for Certificate Verification. At the time of Certificate Verification, it was found that the petitioners have not passed the Bachelor's Degree in any one of the subjects mentioned in the Notification or a degree in any one of the equivalent subjects from a recognised university as per Clause 3 of the aforesaid notification.

6. The learned Government Advocate further submitted that commerce is taught as a subject in classes VI to X in CBSE Schools for which the eligibility test is conducted. But in the State, Commerce is not taught as a subject in Classes VI to X and as a consequence thereof, Commerce Graduates with B.Ed are not eligible to be selected for appointment as B.T Assistants (Social Science). Hence prayed for dismissal of the writ petition.

7. Admittedly, the petitioners have passed B.Com, M.Com and B.Ed as mentioned above. The petitioners were allowed to appear for TET Paper-II in October 2012 as per the information furnished by her in the OMR Application. At the time of Certificate Verification it was found that the petitioners have not acquired qualification in Bachelor's Degree in any one of the subjects mentioned in the Notification or a degree in any one of the equivalent subjects from a recognised University as per Clause 3 of the aforesaid notification. Clause 3 of the Notification reads as follows;

- Candidates who have passed Higher Secondary Course (10+2 pattern) and Diploma in Teacher Education in a Recognised Teacher Training Institute/DIET and seeking an appointment as Teacher for classes I to V (except visually impaired candidates) can write Paper I.
- Candidates who have passed a Bachelor's Degree (B.A/B.Sc/BLitt) with Tamil, English, Mathematics, Physics, Chemistry, Botany, Zoology, History and Geography or a Degree with any one of the equivalent subjects from a recognised University under 10+2+3 Pattern and a Degree in Teacher Education (B.Ed) from a recognised University and seeking an appointment as Teacher for classes VI to VIII can write Paper II.
- Candidates appearing for the final year examination of D.T.Ed/B.Ed during the current Academic year are also eligible to appear for the Teacher Eligibility Test.

8. As per the above notification, since the petitioners had not possessed the degree in Commerce at the time of the notification, they found not eligible to apply for the said post as required in the said notification.

9. Further, taking note of the point that the petitioners proceeded in the Teachers Eligibility Test pursuant to the notification issued by Teachers Recruitment Board on 11.02.2011 and the inclusion of B.Com degree as eligible to the post of B.T Assistant came into effect only from 10.06.2011 by way of amended notification issued by the NCTE, this Court is not impressed with the arguments advanced by the learned counsel for the petitioner by relying upon the notification issued by NCTE on 10.06.2011 and sought for selection to the post of B.T Assistant. Hence these writ petitions deserves to be dismissed.

10. In the result, these writ petitions are dismissed as devoid of merits. However, it is open to the petitioners to approach the respondent for their claim. No Costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The Principal Secretary to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai - 600009.

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

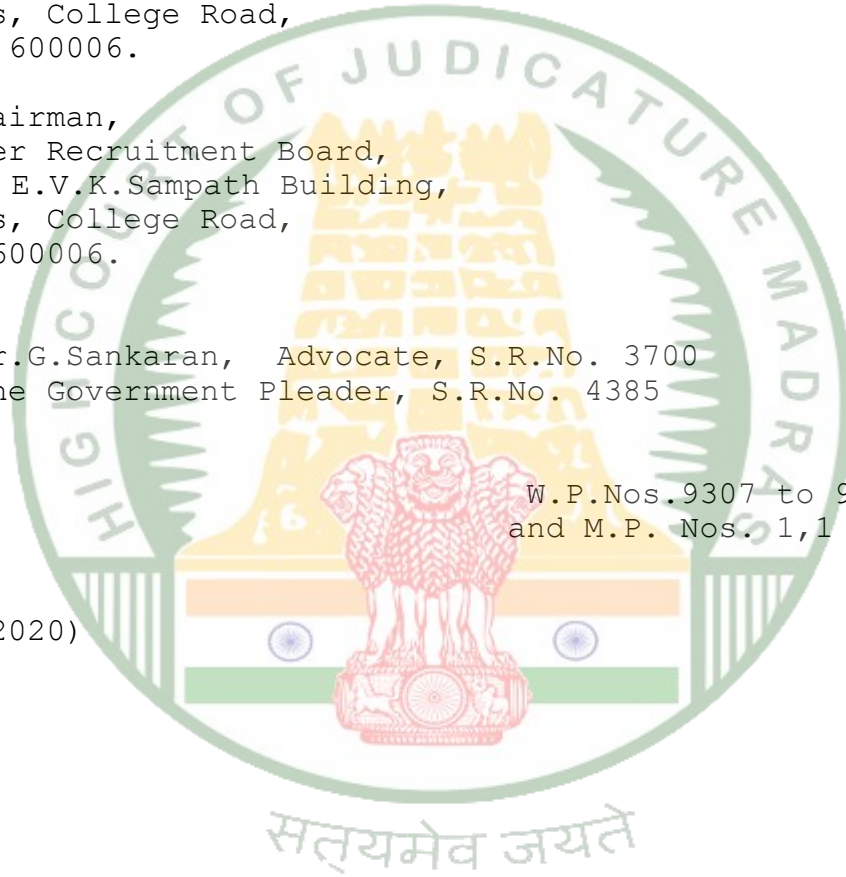
3.The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600006.

4. The Chairman,
The Teacher Recruitment Board,
4th Floor, E.V.K.Sampath Building,
DPI Campus, College Road,
Chennai- 600006.

+3cc to Mr.G.Sankaran, Advocate, S.R.No. 3700
+1cc to the Government Pleader, S.R.No. 4385

W.P.Nos.9307 to 9309 of 2014
and M.P. Nos. 1,1 & 1 of 2014

SVI (CO)
GN(30/07/2020)



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