



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:17.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.[MD]No.14118 of 2020

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Y.Stephenraj

... Petitioner

Vs.

1.The District Educational Officer,
O/o.the District Educational Office,
Valliyur,
Tirunelveli,
Tirunelveli District.

2.The Correspondent,
S.M.Cardar Meera Saiba Hi. Sec. School,
Pettaikulam,
Radhapuram Taluk,
Tirunelveli District.

... Respondents

PRAYER : This Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in connection with the impugned order passed by him in his proceedings in Na.Ka.No.368/A2/2020 dated 29.05.2020 and quash the same as illegal and arbitrary and consequently, direct the first respondent to approve permitted salary increment per year from 21.06.2011 to 01.07.2017 and to re-fix the salary on par with VII pay commission on the basis of the above increments for the petitioner for his post of B.T.Assistant (Tamil) and also in the light of the order passed by this Court in W.P(MD)Nos.3681, 3682, 3683 and 3684 of 2018 dated 26.03.2018.

For Petitioner	:	Mr.K.Sankar
For R-1	:	Mr.N.Shanmugaselvam, Additional Government Pleader

O R D E R

This Writ Petition has been filed challenging the order passed by the first respondent in his proceedings in Na.Ka.No.368/A2/2020, to quash the same as illegal and arbitrary and consequently, direct the first respondent to approve the petitioner's permitted salary increment per year from 21.06.2011 to 01.07.2017 and to re-fix the salary on par with VIIth pay commission on the basis of the above increments for the petitioner for his post of B.T.Assistant (Tamil), in the light of the order passed by this Court in W.P(MD)Nos.3681, 3682, 3683 and 3684 of 2018, dated 26.03.2018.



2. It is the case of the petitioner that he was appointed as a BT Assistant(Tamil) on 15.06.2011 in the second respondent school and the second respondent school is a Minority Institution and getting Government aid for the sanctioned post. When that being the case, the petitioner was denied the annual increment to his Post of B.T.Assistant(Tamil), due to the reason that within a five years period, he has not qualified in Teachers Eligibility Test. According to the petitioner, he was appointed before the introduction of Teachers Eligibility Test (TET) vide G.O.Ms.No.181 School Education (Cs) Department, dated 15.11.2011. Accordingly, it is not necessary to pass the Teachers Eligibility Test (TET) in so far as the petitioner is concerned.

3. The learned counsel for the petitioner submitted that the Honourable Supreme Court of India, has held that passing of Teachers Eligibility Test (TET) is not mandatory in so far as the teachers working in the Minority Educational Institutions are concerned, vide Judgment reported in **2014 (8) SCC 1 : (2014) 4 MLJ 486 (SC) (Pramati Educational and Cultural Trust and Others v. Union of India and Others)**. Therefore, there is no need for the petitioner to complete the Teacher Eligibility Test as prescribed in G.O.Ms.No.181, dated 15.11.2011. He has further submitted that the issue raised in this writ petition has already been settled by this Court in a number of judgments. Therefore, the issue is no more *res integra*.

4. Heard the submissions of the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the first respondent and perused the materials available on record.

5. In an identical issue, a Division Bench of this Court in the case of **Director of School Education, Chennai and others v. Mrs.J.Prabha Viothini and another** in **W.A(MD)Nos.791, 794, 795 and 796 of 2020**, has considered the issue vide common judgment dated 09.09.2020 and dismissed the writ appeals filed by the State and it is relevant to extract Paragraph No.8 of the said judgment as follows:

"8.In *Pramati Educational and Cultural Trust and others v. Union of India and others* (cited supra), the Honourable Supreme Court of India in paragraph No.46, observed that "In our view, if the 2009 Act is made applicable to minority schools, aided or unaided, the right of the minorities under Article 30(1) of the Constitution will be abrogated. Therefore, the 2009 Act insofar it is made applicable to minority schools referred in clause (1) of Article 30 of the Constitution is *ultra vires* the Constitution". The said judgment has also been followed by this Court in various



pronouncements."

6. Therefore, G.O.Ms.No.181, School Education (C2)Department, dated 15.11.2011, will not be applicable to the petitioner's case.

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7. In the result, this writ petition is allowed and the impugned order passed by the first respondent dated 29.05.2020, is hereby quashed and the first respondent is directed to approve the permitted salary increment of the petitioner and refix the salary of the petitioner to the post of B.T.Assistant(Tamil), within a period of twelve weeks from the date of receipt of a copy of this order. No Costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:-

The District Educational Officer,
O/o.the District Educational Office,
Valliyur,
Tirunelveli,
Tirunelveli District.

+1 CC to M/s.K.SANKAR, Advocate (SR-26456[F] dated 21/12/2020)

W.P. (MD)No.14118 of 2020

17.12.2020

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AP (30/12/2020) 3P 3C