



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2020

CORAM:

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.[MD]No.17814 of 2020
and
W.M.P (MD) No.14852 of 2020

K.Priyanka
Secondary Grade Teacher,
Selvapackiam Primary School,
R.Mettupatti,
Ramanathapuram Post,
Thenkasi District.

... Petitioner

Vs.

1. The District Educational Officer,
O/o, the District Educational Office,
Sankarankovil,
Tirunelveli District.
2. The Block Educational Officer,
O/o. the Block Educational Office,
Vasudevanallur,
Thenkasi District.
3. The Secretary,
Selvapackiam Primary School,
R.Mettupatti,
Ramanathapuram Post,
Thenkasi District.

... Respondents

PRAYER : This Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, to direct the respondents to sanction yearly and incentive increment from the year 2016 for the petitioner without insisting upon Teacher Eligibility Test qualification in conformity with the proceedings of the first respondent in ந.க.எண்.1743/ஆ2/2010 dated 15.03.2011 and consequently, to direct the respondent to disburse the said benefits along with the arrears of salary within the period that may be stipulated by this Court.



For Petitioner

: Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For R-1 and R-2

: Mr.A.Thiagarajan
Government Advocate

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O R D E R

This Writ Petition has been filed to direct the respondents to sanction yearly and incentive increment from the year 2016 for the petitioner without insisting upon Teacher Eligibility Test qualification in conformity with the proceedings of the first respondent in ந.க.எண்.1743/ஆ2/2010 dated 15.03.2011 and consequently, to direct the respondents to disburse the said benefits along with the arrears of salary within the period that may be stipulated by this Court.

2.The learned counsel appearing for the petitioner would submit that the petitioner was initially appointed as Secondary Grade Teacher on 23.02.2011 in the fourth respondent School and her appointment was also duly approved by the first respondent vide his proceedings in ந.க.எண்.1743/ஆ2/2010 dated 15.03.2011. He would further submit that there is no need for completing Teacher Eligibility Test as prescribed in G.O.Ms.No.181, dated 15.11.2011. The issue in this writ petition has already been settled by this Court in a number of judgments. Therefore, the issue is no more *res integra*.

3.The learned Standing Counsel appearing for the respondents would fairly submit that the issue has already been settled by this Court in a number of judgments.

4.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 and 2.

5.The petitioner acquired the qualification of B.A., M.A., and B.Ed and she was appointed as Secondary Grade Teacher on 23.02.2011. As per G.O.Ms.No.181, dated 15.11.2011, the Secondary Grade Teacher was supposed to complete the TET qualification. But this Court in a number of judgments held that only those persons, who are appointed as Secondary Grade Teachers on or after 27.09.2011, are required to acquire the TET qualification and those persons who have been appointed prior to that, need not acquire the TET qualification. This Court has already passed an order in W.P(MD) Nos.8313, 8317 and 8319 of 2020 dated 30.07.2020, wherein it has held as follows:-

12. In this context, the learned counsel appearing for the petitioners has relied upon a decision of the learned Judge of this Court exactly on the same point made in a batch



of writ petitions in W.P(MD).Nos.5626 to 5630 of 2017 etc., dated 08.03.2019 in the matter of M.Maharani Vs. State of Tamil Nadu rep., by its Secretary, Department of School Education and others. In the said order, the learned counsel for the petitioner relied upon para No.10, which reads thus.

"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 appointments have to be made in accordance with NCTE (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) 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 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."

13. From the reading of the said judgment, it has become clear that the NCTE prescribed the qualification of TET originally from 23.08.2010 and subsequently from 27.09.2011 by way of notification. Therefore, the actual date, on which, the said qualification become mandatory is 27.09.2011. Therefore, those teachers, who were appointed prior to 27.09.2011 cannot be put against the said prescription of the NCTE and this has been exactly decided by the learned Judge in the said judgement, referred to above.



6. In view of the above, this Court is of the view that the petitioner was appointed as Secondary Grade Teacher on 23.02.2011 and she does not require to acquire the TET qualification. Therefore, this Writ Petition is allowed and the respondents are directed to disburse the incentive increment, along with the arrears of salary to the petitioner within a period of eight weeks from the date of receipt of copy of this order without insisting the petitioner to possess the TET qualification. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (C.O)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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:-

1. The District Educational Officer,
O/o, the District Educational Office,
Sankarankovil,
Tirunelveli District.
2. The Block Educational Officer,
O/o. the Block Educational Office,
Vasudevanallur,
Thenkasi District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate SR-24468.
+1 CC to the SPL GP SR-24694.

W.P. [MD]No.17814 of 2020
07.12.2020

MJ(CO)
CS(23.12.2020) 4P 5C