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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

CORAM:

THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P.NO.15904 OF 2020

Anith Priya

... Petitioner

.Vs.

1. The Director Elementary Education,
DPI Campus, College Road,
Chennai - 600 039.

2. The District Educational Officer,
Chennai - 600 006.

3. The Block Educational Officer,
Perambur Zone,
Villivakkam.

... Respondents

PRAYER:-

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to regularize the services of the petitioner and consequently grant her with annual increment pursuant to the recommendation of the N.P.Devadas Primary School dated 07.08.2019 with effect from the year 2012 within a time frame fixed by this Hon'ble Court.

For Petitioner : Mrs.Dakshayani Reddy

For Respondents : Mr.Abishek Murthy
Government Advocate

ORDER

The petitioner has filed the present writ petition praying to direct the respondents to regularize the services of the petitioner and consequently, grant her with annual increment pursuant to the recommendation of the M.P.Devadas Primary School dated 07.08.2019 with effect from the year 2012 within a time frame fixed by this Hon'ble Court.



2. The case of the petitioner is that she was appointed as a Secondary Grade Teacher in one M.P.Devadas Primary School with effect from 19.09.2011. Her appointment was also approved with effect from 01.11.2011 by the Educational Authority. Despite her continuous work, after over a period of 9 years, she has not been granted annual increments. Since the date of her appointment, she has been drawing a basic salary of Rs.5200-20200 with the grade pay of Rs.2800 and personal pay of Rs.750/-.

3. According to the petitioner, she has been approaching the authorities concerned for grant of annual increments, but, no favourable action has been forthcoming from the respondents. The petitioner, reliably learnt that the inaction of the respondents is due to the fact that the condition of qualifying T.E.T., which has been mandated in G.O.Ms.No.189, dated 15.11.2011 is the reason for not regularizing the service of the petitioner till date.

4. The learned counsel Mrs.Dakshayani Reddy appearing for the petitioner, would submit that the petitioner being appointed prior to the issuance of G.O.Ms.No.189 dated 15.11.2011, the T.E.T qualification was not to be made applicable to such teachers. According to her, the issue is no more res integra as this Court has rendered numerous decisions holding that the teachers appointed prior to the said G.O. were not required to qualify in T.E.T. The learned counsel would refer to one such decision dated 22.03.2019 in W.P(MD)Nos. 6348 and 6349 of 2019. The learned counsel would refer to paragraphs 4 to 7 of the order which are extracted hereunder

4.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;



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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



present writ petition as well.

7. The Writ Petition is therefore, allowed. The respondents are directed to regularise the service of the petitioner and grant her annual increments as admissible to her as recommended by the School in which she was appointed and working.

8. The respondents are directed to pass appropriate orders in this regard within a period of four weeks from the date of receipt of copy of this order. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vsi/tri

To

1. The Director Elementary Education,
DPI Campus, College Road,
Chennai - 600 039.
2. The District Educational Officer,
Chennai - 600 006.
3. The Block Educational Officer,
Perambur Zone,
Villivakkam.

+1cc to Mrs.Dakshayani Reddy, Advocate, S.R.No.69288
+1cc to the Government Pleader, S.R.No.69751

W.P.NO.15904 OF 2020

SSV(CO)
PBS/20/01/2022