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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.10.2021
PRONOUNCED ON : 02.11.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.20261 of 2021
and WMP.Nos. 21516 & 21518 of 2021

K.Govindaraju

...Petitioner

vs

1. The Government of Tamil Nadu
Represented by its Secretary to Government,
Department Environment, climate change
and Forest Department,
Secretariat, Chennai 600 009.
2. The Principal Chief Conservator,
Office of Principal Chief Conservator,
Panagal Building, Saidapet,
Chennai 600 015.
3. The Chief Conservator of forests and field Director,
Office of Chief Conservator of forests and field Director,
Anamalai Tiger Reserve,
Pollachi, Coimbatore District.
4. The District Forest Officer and Deputy Director,
Anamalai Tiger Reserve,
Pollachi, Coimbatore District.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records from the 4th respondent's proceedings vide impugned letter Se.Mu.Aa.No.8479/2020 pa dated 17.08.2021 relating to the petitioner was de-promoted from B.T.Assistant to Junior Assistant and to quash the same and to permit the petitioner to continue as B.T.Assistant in 4th Respondent School.



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For Petitioner : Mr.P.Saravanan
For Respondents : Mr.L.S.M.Hasan Fizal
Government Advocate.

O R D E R

The petitioner was appointed as a Junior Assistant with the 2nd respondent in the year 2010. The petitioner's service was regularized on 23.06.2011. The petitioner was thereafter appointed as a B.T.Assistant with the 4th respondent's Tribal Residency School Topslip of Ulandy Range in the year 2014 and later his service was regularized on 13.10.2015.

2. By the impugned order communication dated 17.8.2021, the 4th respondent has informed the petitioner that the petitioner was to be reverted back to the post of a Junior Assistant has not cleared TET (Teacher Eligibility Test) .

3. It is submitted that the impugned order is unsustainable as the petitioner was appointed in the Tamil Nadu Forest Subordinate Service Rules and was not required to obtain TET qualification prescribed by the National Council for Teacher Education under Right of Children to Free and Compulsory Education Act, 2009 (RTE) and as Notified G.O.Ms.No.181, School Education (C2) Department dated 15.11.2011.

4. It is further submitted that the petitioner has rendered a unblemished service with the 4th respondent and was promoted from the post of a Junior Assistant to B.T. Assistant on 28.04.2014 by the 4th respondent. It is further submitted that after having served for more than 7 years as a B.T.Assistant it would be unfair to revert the petitioner as a Junior Assistant by stating that the petitioner was not eligible to be continue as a B.T.Assistant in absence of TET qualification.

5. Appearing on behalf of the respondents, the learned Government Advocate for the respondents submits that the petitioner does not possess the requisite qualification to work as a B.T Assistant and therefore the decision was taken to revert the petitioner back as a Junior Assistant which should not be interfered.

6. The learned Government Advocate for the respondents further submits that the respondents are governed by G.O.(MS) No.181 dated 15.11.2011 and therefore the petitioner cannot be allowed to continue to work as a B.T Assistant in the 4th



respondent's aforesaid school. It is therefore submitted that the present writ petition is liable to be dismissed.

7. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents. Section 23 (1) of the Right of Children to Free and Compulsory Education Act, 2009 (RTE) the National Council for Teacher Education (NCTE) has been appointed as the Academic Authority by the Government of India. The said Authority has made it compulsory for the teachers in all the state to qualify in the Teacher Eligibility Test within a period of 5 years.

8. The Government of Tamil Nadu also adopted the same and has issued G.O.(MS) No.181 dated 15.11.2011. Both aided and unaided schools were bound to ensure that the teachers already working and in employment have to obtain necessary certificate in the Teacher Eligibility Test.

9. However, in the case of The State of Tamilnadu rep.by its Principal Secretary and Others vs. N.Taj and another, W.A. (MD)Nos.522 & 523 of 2018 dated 27.03.2018, the Court held as under:-

58. In our opinion, non qualifying in TET by the Teachers already in service should not defeat the object of the Government to provide quality and standard education and therefore, the Government may, in the alternative, conduct a refresher course and also some interactive 43 sessions during annual vacation, in order to ensure and enhance the quality of education.

The above observation applies only to those in service.

10. In Mrs.D.Raja Malar Vs The State of Tamil Nadu, Department of School Education and others in W.P(MD).Nos.8313, 8317 & 8319 of 2020 vide dated 30.07.2020 and K.Priyanka Vs The District Educational Officer and others passed in W.P(MD).No.17814 of 2020 vide dated 07.12.2020, the Courts noted the decision in M.Maharani Vs. State of Tamil Nadu rep., by its Secretary, Department of School Education and others in W.P(MD).Nos. 5626 to 5630 of 2017 etc., vide its order dated 08.03.2019 and observed that 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



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+1 CC to Mr.P.Saravanan, Advocate sr 57242.

W.P.NO.20261 of 2021

KSM(CO)
SP(01/12/2021)