

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.01.2021
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.27010 and 27011 of 2014
and M.P.Nos.1 & 1 of 2014

G.Gurunathan Petitioner in W.P.No.27010 of 2014

K.Muthulakshmi Petitioner in W.P.No.27011 of 2014

Vs

1 State of Tamilnadu
rep. by Principal Secretary to Government
School Education Department
Secretariat,
Fort St. George
Chennai-9

2 The Director of School Education,
DPI Campus, College Road,
Chennai - 600 009.

3 The Chief Educational Officer,
Cuddalore District,
Cuddalore.

4 The District Educational officer,
Virudhachalam,
Cuddalore District.

5 The Secretary,
Aruna Higher Secondary School,
Eraiur, Pennadam RP,
Thittakudi Taluk,
Cuddalore District.

..... Respondents in both W.Ps

Prayer in W.P.No.27010 of 2014: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents 2 to 4 to approve the appointment of the petitioner in the post of BT Assistant (Science) in the 5th respondent school from the date of appointment on 20.09.2012 with all consequential and other attendant benefits including arrears of salary with interest within a time frame to be fixed by this Honourable Court.

Prayer in W.P.No.27011 of 2014: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents 2 to 4 to approve the appointment of the petitioner in the post of BT Assistant(Tamil) in the 5th respondent school from the date of appointment on 20.09.2012 with all consequential and other attendant benefits including arrears of salary with interest within a time frame to be fixed by this Honourable Court.

For Petitioners : Mr.G.Sankaran
For R1 to R4 : Mr.A.Rajaperumal, AGP

COMMON ORDER

The prayer made in these writ petitions is to issue a mandamus, directing the respondents 2 to 4 to approve the appointment of the petitioners in the post of BT Assistant in the 5th respondent school from the date of appointment with all consequential and other attendant benefits including arrears of salary with interest, within a time frame to be fixed by this Court.

2.According to the petitioners, they were appointed as BT Assistants in the regular sanctioned vacancies arose due to the retirement of incumbents, vide orders dated 11.01.2012, based on the permission granted by the third respondent to the fifth respondent school, vide proceedings in Na.Ka.No.3785/A3/2011 dated 29.06.2011 and Na.Ka.No.11726/A3/2011 dated 31.10.2011 respectively. They joined duty on 21.01.2012 and continued to work as such till date. Subsequently, the fifth respondent School sent proposals to the fourth respondent seeking approval for appointment of the petitioners to the said posts. However, the fourth respondent by referring to the proceedings of the second respondent in Na.Ka.No.88573/D1/E4/12 dated 16.11.2012 returned the proposals on the ground that the petitioners did not pass the Teacher Eligibility Test. Feeling aggrieved, the petitioners have come up with these writ petitions for the aforesaid relief.

3.Upon notice, the respondents filed a separate counter affidavit, wherein, it is inter alia stated that the post of BT Assistants normally filled up by the candidates after passing the Teacher Eligibility Test (TET) under Section 23(1) of the Right of Children to free and compulsory Education Act, 2009 (RTE Act) and G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011; however, the petitioners were appointed as BT Assistants without passing the TET with effect from 21.01.2012, which is not in order and hence, the same was not approved by the fourth respondent.

4.The averments so made in the counter affidavit have been stoutly refuted by the learned counsel for the petitioners. According to him, the petitioners were appointed in the regular sanctioned posts and at the time of notification, there was no specification with regard to pass in TET and that, the petitioners are fully qualified for the post of BT Assistants and hence, their appointment has to be approved by the respondent authorities.

5.On the other hand, the learned Additional Government Pleader appearing for the respondents fairly submitted that if the petitioners submit fresh representations, the respondent authorities would consider the same and pass orders, on merits and in accordance with law, which has been agreed by the learned counsel for the petitioners.

6.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court directs the petitioners to submit fresh representations to the respondent authorities, within a period of two weeks from the date of receipt of a copy of this order. On such submission, the respondent authorities shall consider the same and pass appropriate orders, on merits and in accordance with law, within a period of eight weeks thereafter.

7.Accordingly, both the writ petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

msv

To

1 Principal Secretary to Government
State of Tamilnadu
School Education Department
Secretariat, Fort St. George
Chennai-9

2 The Director of School Education,
DPI Campus, College Road,
Chennai - 600 009.

3 The Chief Educational Officer,
Cuddalore District,
Cuddalore.

4 The District Educational officer,
Virudhachalam,
Cuddalore District.

+2ccs to Mr.G.Sankaran, Advocate SR.No. 4475
+1 cc to Government Pleader Sr.No. 4827

W.P.Nos.27010 and 27011 of 2014

UM (CO)
A.SK(08.07.2021)



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