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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.23999 & 24003 of 2019  
and

W.M.P.Nos.23851 & 23852 of 2019

W.P.No.23999 of 2019

M.Velayutham

... Petitioner

Vs.

1.The Director of School Education,  
DPI Campus, College Road,  
Chennai - 600 006.

2.The Chief Educational Officer,  
Kancheepuram District,  
Kancheepuram.

3.The District Educational Officer,  
Chengalpattu Education District,  
Kancheepuram District.

4.The Secretary,  
Jaigopal Garodia National  
Higher Secondary School,  
East Tambaram,  
Chennai - 600 059.

... Respondents

In W.P.No.24003 of 2019

A.Choodamani

... Petitioner

Vs.

1.The Director of School Education,  
DPI Campus, College Road,  
Chennai - 600 006.

2.The Chief Educational Officer,  
Presidency Girls Higher Secondary School Campus,  
Gengureddy Road, Egmore,  
Chennai - 600 008.



3.The District Educational Officer,  
Chennai East, Chennai - 600 094.

4.The Secretary,  
K.Ramiah Chetty ARC Girls Higher Secondary School,  
New No.26 (Old No.38),  
Saivamuthiya Street,  
Chennai - 600 001.

... Respondents

Prayer in W.P.No.23999 of 2019: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents from insisting passing of Teacher Eligibility Test (TET) for the petitioner appointed as B.T.Assistant (English) in 4<sup>th</sup> respondent school on 15.06.2011, prior to G.O.Ms.No.181, School Education Department, dated 15.11.2011 and consequently direct the respondents to continue to make payment of salary including annual increment, incentive increment and other service benefits.

Prayer in W.P.No.24003 of 2019: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents from insisting passing of Teacher Eligibility Test (TET) for the petitioner appointed as B.T.Assistant (Science) in 4<sup>th</sup> respondent school on 29.07.2011, prior to G.O.Ms.No.181, School Education Department, dated 15.11.2011 and consequently direct the respondents to continue to make payment of salary including annual increment, incentive increment and other service benefits.

For Petitioner : Mr.S.Nedunchezhiyan  
(in both W.Ps)

For Respondents: Mr.K.Tippu Sulthan  
Nos.1 to 3 Government Advocate  
(in both W.Ps)

#### COMMON ORDER

By consent of both the parties, these Writ Petitions are taken up for final disposal.

2. In a series of decisions rendered by this Court, it has been held that the requirement of passing Teacher Eligibility Test (TET) for appointment of teachers to the posts of BT Assistants and Secondary Grade Teachers, would be applicable only for such of those teachers, who were appointed on and after 27.09.2011. The rationale behind such decisions is that the pre-requirement of a TET qualification, which was prescribed



through G.O.Ms.No.181, School Educational Department, dated 15.11.2011, was originally introduced by notification dated 23.08.2010 and subsequently amended on 27.09.2011. It is on this basis that the Courts have held that the effective date for possession of TET as a Pre-qualification, is from 27.09.2011. In other words, the teachers who were appointed prior to 27.09.2011, cannot be insisted for possessing TET qualification, as prescribed by the NCTE. This ratio has been laid down in a decision of the Madurai Bench of this Court in the case of Mrs.D.Raja Malar Vs The State of Tamil Nadu, Department of School Education and others, passed in W.P(MD).Nos.8313, 8317 & 8319 of 2020 dated 30.07.2020, as well as in the case of K.Priyanka Vs The District Educational Officer and others passed in W.P(MD).No.17814 of 2020 dated 07.12.2020. The relevant portion of the order in D.Raja Malar's case (supra) reads as follows:-

"11.The only controversy which arises in this writ petition is, whether the reason cited in the impugned order that, the petitioners should have qualified with TET qualification, even though they were appointed on 17.09.2010, 20.06.2011 and 20.06.2011 respectively and from that date, their appointments have also been approved by the 3rd respondent, for getting the benefit like the annual increment, is hold good or not.

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



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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.

14. In the case of the petitioners, they were appointed on 17.09.2010, 20.06.2011 and 20.06.2011 respectively in the sanctioned vacancy as B.T.Assistant and Tamil Pandit at the fifth respondent School and the said appointments, having been considered, was approved by the third respondent vide his proceedings, dated 28.12.2011, 15.11.2011 and 15.11.2011 respectively, where it has been specifically stated that, the petitioners were appointed on 17.09.2010, 20.06.2011 and 20.06.2011 and approval was also given from the date of their appointment.





arb/DP

To

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- 1.The Director of School Education,  
DPI Campus, College Road,  
Chennai - 600 006.
- 2.The Chief Educational Officer,  
Kancheepuram District,  
Kancheepuram.
- 3.The District Educational Officer,  
Chengalpattu Education District,  
Kancheepuram District.
- 4.The Secretary,  
Jaigopal Garodia National Higher Secondary School,  
East Tambaram, Chennai - 600 059.
- 5.The Chief Educational Officer,  
Presidency Girls Higher Secondary School Campus,  
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- 6.The District Educational Officer,  
Chennai East, Chennai - 600 094.
- 7.The Secretary,  
K.Ramiah Chetty ARC Girls Higher Secondary School,  
New No.26 (Old No.38), Saivamuthiya Street,  
Chennai - 600 001.

+2cc to Mr.G.Sankaran, Advocate, S.R.No.37207  
+1cc to the Government Pleader, S.R.No.37387

W.P.Nos.23999 & 24003 of 2019

VG-II(CO)  
CB(23/08/2021)