



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)Nos.8835, 8837 & 8838 of 2021

R.Seshathri ... Petitioner in W.P(MD)No.8835/2021

M.Nithya ... Petitioner in W.P(MD)No.8837/2021

R.M.Chitra Devi ... Petitioner in W.P(MD)No.8838/2021

vs.

1.The Chief Educational Officer,
Sivagangai District.

2.The District Educational Officer,
Devakottai,
Sivagangai District. ... Respondents 1 & 2 in all W.Ps'

3.The Secretary,
S.C.G.R.High School,
Amaravathi Pudur,
Sivagangai District. ... 3rd Respondent in W.P(MD)No.8835/2021

3.The Secretary,
Sri Saraswathi Vidyasalai Girls Higher Secondary School,
Puduvayal,
Sivagangai District.
... 3rd Respondent in W.P(MD)Nos.8837 & 8838/2021

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writs of Mandamus, forbearing the respondents from insisting the petitioners to produce Teachers Eligibility Test pass Certificate and to direct the respondents to release the yearly increments and other entitled benefits from April, 2020, January, 2021 and January, 2021 respectively and to pay continuously to the petitioner.

For Petitioner : Mr.V.Panner Selvam
(In all W.Ps')

For RR 1 & 2 : Mr.N.Shanmuga Selvam
(In all W.Ps') Additional Government Pleader

COMMON ORDER

Since the issues involved in these Writ Petitions are one and the same, these Writ Petitions are heard together and decided in this common order.

2.These Writ Petitions are filed seeking Writs of Mandamus, forbearing the respondents from insisting the petitioners to produce Teachers Eligibility Test pass Certificate and to direct the



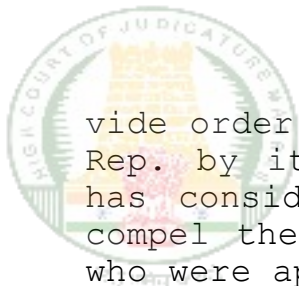
respondents to release the yearly increments and other entitled benefits from April, 2020, January, 2021 and January, 2021 respectively and to pay continuously to the petitioner.

3. Heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader appearing for the respondents 1 & 2.

4. According to the petitioners, they were appointed as B.T (Assistants) on 05.04.2011, 04.01.2011 and 04.01.2011 respectively in the third respondent School in sanctioned posts, after obtaining prior permission from the authority concerned. Though the second respondent, vide his proceedings dated 10.08.2011, 11.02.2011 and 11.02.2011 granted approval to the appointment of the petitioners with effect from 05.04.2011, 04.01.2011 and 04.01.2011 respectively, there was no condition imposed as to the pass in the Teachers Eligibility Test either in the appointment order or in the approval order. But, without assigning any reason, the respondents have not sanctioned yearly increments for April, 2020, January, 2021 and January 2021 respectively, despite they released salary and all other benefits including yearly increments to them till 2019, 2020 and 2020 respectively. The petitioners submitted that when they were appointed on 05.04.2011, 04.01.2011 and 04.01.2011 respectively, there was no requirement of pass in TET examination for appointment. The National Council for Teacher Education (hereinafter referred to as 'NCTE') has issued a Notification, dated 23.08.2010, laying down the minimum qualifications for a person to be eligible for appointment as a Teacher in Class I to VIII. The Principal Secretary issued Government Order in G.O.Ms.No.181, dated 15.11.2011, making the TET as mandatory for all the Teachers, who are working within the State. The Government first time conducted TET examination in the month of April, 2012 and the results were published only in the month of July, 2012.

5. The learned counsel appearing for the petitioners contended that this issue was already considered by the Division Bench of this Court and the Division Bench of this Court held that those, who were appointed prior to the issuance of G.O.Ms.No.181, cannot be compelled to pass TET. In view of the said Judgment, the Notification, dated 23.08.2010, was amended on 29.07.2011, stating that the qualification of TET is mandatory only from 29.07.2011 and the respondents cannot compel the petitioners to appear and pass in the TET examination and prayed for allowing these Writ Petitions.

6. The issue whether a person, who was appointed as B.T Assistant prior to the issuance of G.O.Ms.No.181, can be compelled to acquire a pass in TET examination, is no longer *res integra*. The amended Notification issued by the NCTE makes it very clear that the qualification of TET is mandatory from 29.07.2011. The learned Single Judge of this Court in W.P(MD)Nos.5626 of 2017 etc., batch,



vide order dated 08.03.2019 (M.Maharani Vs. The State of Tamil Nadu, Rep. by its Secretary, Department of School Education and others) has considered these issues and held that the respondents cannot compel the Teachers similarly placed like that of the petitioners, who were appointed prior to 29.07.2011, to pass in TET examination.

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7.In the present case, the petitioners were appointed on 05.04.2011, 04.01.2011 and 04.01.2011 respectively. Their appointments were approved on 10.08.2011, 11.02.2011 and 11.02.2011 with effect from 05.04.2011, 04.01.2011 and 04.01.2011 respectively. Therefore, this Court has no hesitation to hold that the petitioners are entitled to seek exemption from passing TET, as they were appointed prior to the cut-off date and the respondents are directed not to insist TET Certificate from the petitioners as a pre-condition for their continuance in service as B.T (Assistants) and release the yearly increments and other entitled benefits from April, 2020, January 2021 and January 2021 respectively and pay the same continuously to the petitioners.

8.Accordingly, these Writ Petitions stand allowed. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

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 Chief Educational Officer,
Sivagangai District.
- 2.The District Educational Officer,
Devakottai,
Sivagangai District.

+1 CC to M/s.GP (SR-18355[F] dated 03/05/2021),18356,18357

W.P(MD)Nos.8835, 8837 & 8838 of 2021

30.04.2021

MJ(CO)

KB(12.05.2021) 3P 4C

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