



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.10822 of 2021

WEB COPY

M.Newton

... Petitioner

vs.

1. The District Educational Officer,
Valliyur,
Tirunelveli District.
2. The Chief Educational Officer,
Palayamkottai,
Tirunelveli District.
3. The Correspondent,
Amir Jamal Higher Secondary School,
Idyankulam,
Padmaneri Post Office,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to approve the appointment of the petitioner as B.T.Assistant (History), in the 3rd respondent school, on the basis of the proposal sent by the said school on 16.07.2019 without insisting for qualification in the TET Examination in the light of the decision of the Hon'ble Supreme Court by considering the representation given by the petitioner dated 18.06.2021 may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.E.Marees Kumar

For Respondents : Mr.K.S.Selvaganesan,
Government Advocate for R1 & R2

ORDER

This writ petition has been filed for the issue of a Writ of Mandamus, directing the respondents to approve the appointment of the petitioner as B.T. Assistant (History), in the 3rd respondent school, on the basis of the proposal sent by the said school on 16.07.2019, without insisting a qualification for pass in the TET Examination, in the light of the decision of the Hon'ble Supreme Court, by considering the representation given by the petitioner, dated 18.06.2021.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 and 2.



3. The case of the petitioner is that the third respondent School is a Religious Minority Educational Institution. The minority status of the third respondent school was also declared by the District Munsif Court, Tirunelveli, by its judgment and decree dated 29.04.1980, in O.S.No.1333 of 1979. The petitioner was appointed on 03.06.2019 in the third respondent school as B.T. Assistant (History), due to the vacancy caused by the retirement of one Thiru.N.Naina Mohamed. As such, the third respondent school sent a proposal to the second respondent through the first respondent for the approval of the petitioner's appointment, but the same has been kept pending so far, for non-compliance of TET qualification. Therefore, the petitioner has given a representation on 18.06.2021, to the respondents to approve his appointment in the third respondent school as B.T.Assistant (History). However, till date, the same has not been considered by the respondents. Hence, the petitioner has come out with present Writ Petition for the relief stated supra.

4. The learned counsel appearing for the petitioner submitted that in similar circumstances, this Court, by order, dated 26.07.2018 in W.P(MD)No.16428 of 2018, at paragraph Nos.7 and 8, held as follows:-

"7.In this case also, the petitioner was appointed in the fourth respondent School, which is admittedly a recognised minority aided School. The appointment also has been made within the sanctioned strength and the petitioner claimed that, he is having every qualification to hold the post. When that being the position, as no other reason has been given in the impugned order, except the reason of TET qualification, that too, citing the reason that, no guidelines given by the first respondent/Director to the lower level approving authorities to approve such appointment without TET qualification, this Court is of the firm view that the impugned order cannot be sustained and it is liable to be quashed.

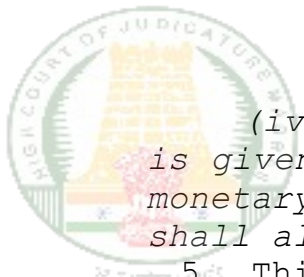
8.In the result:-

(i) the impugned order is quashed and the Writ Petition is allowed;

(ii) the matter is remitted back to the respondents, especially, the second respondent, who shall pass necessary orders with regard to the grant of approval to the petitioner's appointment, as no other impediment has been cited in the impugned order, except the guidelines to be issued by the Director for making approval of the Teachers, who have been appointed in the minority aided School without TET qualification;

(iii) Such orders of approval shall be passed within a period of four weeks from the date of receipt of a copy of

this order, and



(iv) It is needless to mention that, once the approval is given, the petitioner is entitled to get all service and monetary benefits, as per the eligibility and the same shall also be paid to the petitioner forthwith."

5. This Court is of the view that the aforesaid order holds good in favour of the petitioner herein, as he was appointed in the third respondent school, which is admittedly a Recognized Minority Educational Institution; the appointment has also been made within the sanctioned strength; the petitioner claimed that he is having the required qualification to hold the said post; and no other reason has been given in the impugned order, except for non-possession of TET qualification.

6. Hence, this writ petition is disposed of in line with the aforesaid order dated 26.07.2018 in W.P.(MD)No.16428 of 2018, directing the respondents to approve the appointment of the petitioner as B.T.Assistant (History) in the third respondent school without insisting a qualification for pass in TET examination. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 District Educational Officer,
Valliyur,
Tirunelveli District.
2. The Chief Educational Officer,
Pallayamkottai,
Tirunelveli District.

+1 CC to M/s.E.MAREES KUMAR, Advocate (SR-20973[F] dated 02/07/2021)
+1 CC to M/s.SPL GP (SR-21968[F] dated 09/07/2021)

W.P (MD) No.10822 of 2021
01.07.2021

RC (20.07.2021) 3P-5C