



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.11951 of 2021

and

W.M.P. (MD)No.9374 of 2021

WEB COPY

1.R.S.Balaji
2.A.Elangovan
3.S.Francis Devasahayam ... Petitioners

vs.

1.The Government of Tamil Nadu
Rep. By its Secretary to Government,
School Education Department,
St. George Fort, Chennai - 9.

2.The Director of School Education,
D.P.I. Campus, College Road,
Chennai.

3.The Chief Educational Officer,
Virudhunagar, Virudhunagar District.

4.The District Educational Officer,
Virudhunagar, Virudhunagar District.

5.KVS Higher Secondary School,
Rep. by its Secretary,
Virudhunagar,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing respondents 1 to 4 herein from compelling the petitioner's to acquire a pass in Teachers Eligibility Test (TET) for continuance in the post of BT Assistant (Maths) and BT Assistant (Science) in the 5th respondent school by taking note of the petitioners' appointments on 15.06.2011 prior to the issuance of G.O.Ms.No.181, School Education Department, dated 15.11.2011 and to award annual increments, incentive, surrender leave benefits and other attendant benefits to the petitioners from the date of their appointments namely 15.06.2011.

For Petitioners : Mr.T.Pon Ramkumar
For R1 to R4 : Mr.P.Subbaraj,
Government Advocate

**ORDER**

Heard Mr.T.Pon Ramkumar, learned counsel appearing on behalf of the petitioners and Mr.P.Subbaraj, learned Government Advocate appearing for the respondents 1 to 4.

2.The first petitioner was appointed as BT Assistant (Maths) on 15.06.2021 and the petitioners 2 and 3 were appointed as BT Assistant (Science) on 15.06.2011 in the fifth respondent School, in a sanctioned post, after obtaining prior permission from the authority. Their appointments as B.T. Assistant (Science) and B.T.Assistant (Maths) were also approved by the authority.

3.According to the petitioners, the respondents are compelling the petitioners for appearing Teachers Eligibility Test (hereinafter referred to as 'TET'). The petitioners submitted that when they were appointed on 15.06.2011, 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 first respondent issued Government Order in G.O.Ms.No.181, School Education (C2) Department, 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 July, 2012 and the results were published only in the month of August, 2012.

4. 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 in 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 he prayed for allowing these Writ Petitions.

5. 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 only from 29.07.2011. The Division Bench of this Court, in a batch of Writ Petitions, has considered these issues and held that the respondents cannot compel the teachers similarly placed like petitioners to pass in TET examination.

6. For the above reasons, this Writ Petition stands allowed. The respondents are directed to pay annual increments,



incentive, surrender leave benefits and other attendant benefits to the petitioners from the date of their appointment namely 15.06.2011. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// 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 Secretary to Government,
School Education Department,
St. George Fort, Chennai - 9.
- 2.The Director of School Education,
D.P.I. Campus, College Road,
Chennai.
- 3.The Chief Educational Officer,
Virudhunagar, Virudhunagar District.
- 4.The District Educational Officer,
Virudhunagar, Virudhunagar District.

+3 CC to M/s.T.PONRAM KUMAR, Advocate (SR-22803[F] dated 16/07/2021)

+1 CC to M/s.SPL GP (SR-23190[F] dated 19/07/2021)

W.P (MD) No.11951 of 2021
16.07.2021

CM(CO)
KB(28.07.2021) 3P 9C