



WEB COPY

WP(MD) No.16059 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

WP (MD) No.16059 of 2021

and

WMP (MD) .No.12931 of 2021

T.M.Sahitha Banu

... Petitioner

Vs.

1.The Chief Educational Officer,
Tenkasi District,
Tenkasi.

2.The District Educational Officer,
Tenkasi District,
Tenkasi.

3.The Correspondent,
Masood Thaika Higher Secondary School,
Kadayanallur,
Tenkasi District.

... Respondents

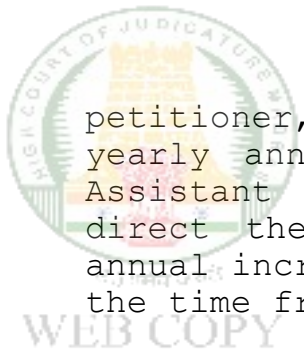
PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned return order in proceedings A.Th.Mu.No.716/A1/18 dated 14.10.2019 issued by the second respondent and quash the same in so far as seeking "Teacher Eligibility Test" particulars of the petitioner, direct the third respondent to resubmit the proposal for yearly annual increment to the petitioner for the post of B.T. Assistant (Maths) in the third respondent school and consequently direct the second respondent to approve the proposal of yearly annual increment to the petitioner with all monetary benefits within the time frame.

For Petitioner	:	Mr. B. Prasanna Vinoth
For Respondents	:	Mr.A.K.Manikkam
		Counsel for State
		for R1 and R2
		Mr.T.S.Mohammed Mohideen
		for R3

O R D E R

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned return order in proceedings A.Th.Mu.No.716/A1/18 dated 14.10.2019 issued by the second respondent and quash the same in so far as seeking "Teacher Eligibility Test" particulars of the

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petitioner, direct the third respondent to resubmit the proposal for yearly annual increment to the petitioner for the post of B.T. Assistant (Maths) in the third respondent school and consequently direct the second respondent to approve the proposal of yearly annual increment to the petitioner with all monetary benefits within the time frame.

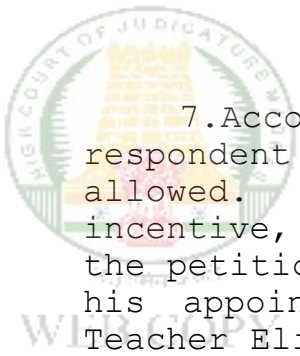
2. According to the petitioner, she was appointed as B.T. Assistant, on 09.03.2012 in the third respondent school, which is a minority institution, in a sanctioned post. The third respondent school sent a proposal to the second respondent for approval of appointment of the petitioner. The second respondent, vide proceeding dated 14.10.2019, returned the proposal on the ground that the petitioner has not passed the Teacher Eligibility Test. Aggrieved against the said order, the petitioner has filed the present Writ Petition before this Court.

3. The learned counsel appearing for the petitioner submitted that in a similar circumstances, a batch of Writ Petitions in W.P. (MD) No. 16428 of 2018 was filed before this Court, seeking annual increments to the teachers who are working in the minorities school without Teacher Eligibility Test. By order dated 26.07.2018, this Court allowed the said Writ Petition. As against the said order, the respondents herein filed Writ Appeal in W.A. (MD) No. 1413 of 2019 and batch before this Court. This Court by order dated 17.11.2019, dismissed the said Writ Appeals. Hence, following the said judgment, the case of the petitioner is to be considered.

4. The learned Standing Counsel for the State appearing for the respondents would submit that as against the judgment in W.A. (MD) No. 1413 of 2019, no further appeal has been preferred by the respondents.

5. Heard the learned counsel appearing for the petitioner, the learned Standing Counsel for the State appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent and perused the materials available on record.

6. On a perusal of the records, it is seen that, this Court in a similar circumstances, by order dated 26.07.2018 in W.P. (MD) No. 16428 of 2018, directed the respondents to award annual increment to the teachers, who are working in the minority institution, without passing Teacher Eligibility Test, like petitioner. Further, both sides admitted that the aforesaid issue is now under reference before the Hon'ble Supreme Court in the case of **Aswini Vs. Thenappan**. Therefore, subject to the outcome of the said case, the second respondent cannot deny the relief as sought for by the petitioner. Hence, this Court has no hesitation to quash the impugned order passed by the second respondent.



7. Accordingly, the impugned order passed by the second respondent dated 14.10.2019 is quashed and this Writ Petition is allowed. The respondents are directed to award annual increments, incentive, surrender leave benefits and other attended benefits to the petitioner including pay fixation and allowance from the date of his appointment viz., 09.03.2012, without insisting to pass in Teacher Eligibility Test, subject to the outcome of any modification or any order passed by this Court. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mnr

To

- 1.The Chief Educational Officer,
Tenkasi District,
Tenkasi.
- 2.The District Educational Officer,
Tenkasi District,
Tenkasi.
- 3.The Correspondent,
Masood Thaika Higher Secondary School,
Kadayanallur,
Tenkasi District.

+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate (SR-28573[F] dated 08/09/2021)

WP (MD) No.16059 of 2021
and

WMP (MD) .No.12931 of 2021
08.09.2021

DJ(CO)

RS/JGB (02.11.2021) 3P 5C