



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)Nos.17516 & 17519 of 2020

and W.M.P. (MD)No.14666 & 14668 of 2020

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R.Sasikala ... Petitioner in W.P.(MD)No.17516/2020

V.Poongkodi ... Petitioner in W.P.(MD)No.17519/2020

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 District Educational Officer,

Musiri, Trichy District.

4.The Block Educational Officer,

Thathiyangarpet Union,

Thathiyangarpet, Musuri Taluk,

Trichy District.

... Respondents in both W.P.s

5.Saraswathi Vidyasala Aided Middle School,

Rep. By its Secretary,

Sittilarai, Musiri Taluk, Trichy District.

... 5th Respondent in W.P.(MD)No.17516/2020

6.Gokhlae Aided Middle School,

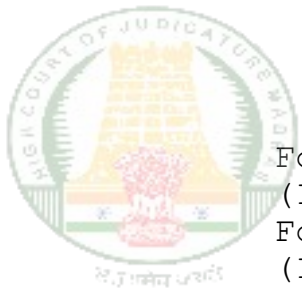
Rep. By its Secretary,

Oorakkarai, Musiri Taluk, Trichy District.

... 5th Respondent in W.P.(MD)No.17519/2020

COMMON 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 to acquire a pass in Teachers Eligibility Test (TET) for continuance in the post of BT Assistant (Science) and BT Assistant (Maths) respectively in the 5th respondent school by taking note of the petitioner's appointment on 27.07.2011 and 18.02.2011 respectively, 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 27.07.2011 and 18.02.2011, respectively.

<https://hcservices.ecourts.gov.in/hcservices/>



For Petitioner : Mr.T.Pon Ramkumar
(In both W.Ps)
For Respondents : Mr.P.Subbaraj,
(In both W.Ps) Government Advocate for R1 to R4

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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.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.

3.The petitioner in W.P.(MD)No.17516 of 2020 was appointed as B.T. Assistant (Science) on 27.07.2011 at Saraswathi Vidyasala Aided Middle School, Trichy District, in a sanctioned post, after obtaining prior permission from the authority. The petitioner in W.P.(MD)No.17519 of 2020 was appointed as B.T.Assistant (Maths) on 18.02.2011, at Gokhlae Aided Middle School, Trichy District, 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.

4.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 27.07.2011 and 18.02.2011 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 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.

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 he 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 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.

7. For the above reasons, these Writ Petitions stand 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 appointments namely 27.07.2011 and 18.02.2011. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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,
Government of Tamil Nadu
School Education Department,
St. George Fort, Chennai - 9.
- 2.The Director of School Education,
D.P.I. Campus, College Road,
Chennai.
- 3.The District Educational Officer,
Musiri, Trichy District.



4.The Block Educational Officer,
Thathiyangarpet Union,
Thathiyangarpet, Musuri Taluk,
Trichy District.

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+1 CC to M/s.SPL GP (SR-19345[F] dated 15/06/2021)

+2 CC to M/s.T.PON RAMKUMAR, Advocate SR-19418[F] dated 16/06/2021

W.P(MD)Nos.17516 & 17519 of 2020
14.06.2021

MJ(CO)
TR(25.06.2021) 4P 8C