



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.23843 of 2019
and W.M.P.(MD).No.20464 of 2019

P.Murugammal

...Petitioner

Vs.

1.The District Educational Officer,
Tirunelveli, Tirunelveli District.

2.The Block Educational Officer,
Tirunelveli Town, Tirunelveli District.

3.The Secretary,
Thiruvalluvar Harijan Primary School,
Asokar Street, Pettai, Tirunelveli,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ Certiorarified mandamus, Calling for the records relating to impugned order in Na.Ka.No.3483/A1/2017, dated 28.12.2017, of the 1st respondent herein and quash the same insofar as not approving the appointment of petitioner as secondary grade teacher w.e.f. 01.06.2012 and consequently direct the respondents 1 and 2 herein to approve the appointment of petitioner as secondary grade teacher w.e.f 01.06.2012 in the 3rd respondent school with all other attended benefits including pay fixation and allowance and award annual increments incentive, surrender leave benefits to the petitioner w.e.f 01.06.2012.

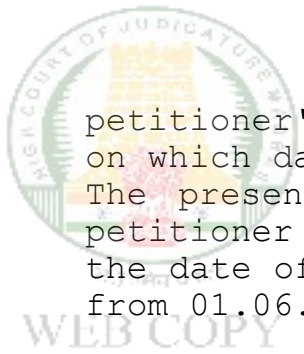
For Petitioner : Mr.T.Pon Ramkumar

For Respondents : Mr.N.Shanmuga Selvam
Additional Government Pleader

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

2.The petitioner herein is a Secondary Grade teacher in the third respondent school, which is a non minority school. Since the petitioner herein had not passed the Teachers Eligibility Test, which was the one of the minimum qualification for the post of Secondary Grade Teacher/B.T. Assistant, her request for approval of her appointment was originally rejected. Thereafter, through orders of this Court passed on 20.01.2017 in W.P.(MD).No.133 of 2019, the



petitioner's appointment was approved with effect from 29.04.2017, on which date the petitioner had passed Teachers Eligibility Test. The present writ petition has been filed on the ground that the petitioner is entitled for approval and the consequent benefits from the date of her initial appointment as Secondary Grade Teacher i.e., from 01.06.2012.

3.The issue with regard to such entitlement from the date of the initial appointment, in cases where such teachers have not qualified in the Teachers Eligibility Test, came up for consideration before this Court on various occasions and in one of the order passed by the Honourable Division Bench of this Court in a batch of Writ Appeal No.1126 of 2015 etc., in the case of *The State of Tamil Nadu rep. by its Secretary to Government, School Education Department Secretariat, Fort St. George, Chennai 600 009. Vs. R.Arivazhagan and another*, it was held as follows:

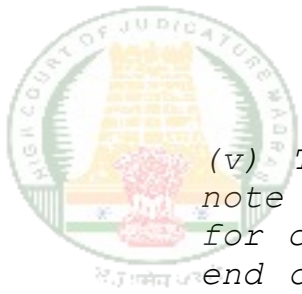
"42. Accordingly, to meet the ends of justice, the writ appeals and the writ petitions are disposed with the following directions :

(i) The Teachers herein, who have been appointed subsequent to the issuance of the Government Order, are granted one opportunity to appear for the Teacher Eligibility Test to be conducted by the Teachers Recruitment Board and in the event of their passing in the Teacher Eligibility Test, their appointments shall be approved else, they have no other option but to quit the service/ousted from service;

(ii) Till the results are published, the Government shall pay the salary to the Teachers, who are in service of the aided institutions, for the services rendered by them and in the cases where salary was not paid the same shall be paid along with arrears, if any, forthwith;

(iii) Learned Advocate General submitted that salary has been paid to most of the Teachers and only a few were not paid, for want of particulars. In such a case, the Teachers whose salary have not been paid for want of particulars, they shall furnish the requisite particulars immediately, so to enable the Government pay the salary immediately;

(iv) Insofar as W.P.No.7593 of 2015 is concerned, though the writ petitioner has qualified with a pass in Teacher Eligibility Test during 2013, she has not been paid the difference of salary from the date of appointment, till the date of passing of the Teacher Eligibility Test. In view of the discussions aforesaid, the Government is directed to pay the difference of salary within a period of four weeks from the date of receipt of a copy of this order; and



(v) The Teachers Recruitment Board is directed to take note of the above observations and to issue notification for conducting Teacher Eligibility Test on or before the end of February 2017, indicating the date of exam to be either in the last week of March 2017 or in the first week of April 2017.

In the result, the writ appeals and the writ petitions are disposed of in the above terms. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed."

4.The aforesaid findings are self explanatory and the respondents may not be justified in approving the petitioner's appointment as Secondary Grade Teacher with effect from the date of passing of the Teachers Eligibility Test. Rather, the petitioner would be entitled for approval and the consequential benefits from the date on which she was appointed as Secondary Grade Teacher i.e., from 01.06.2012.

5.Accordingly, the impugned order passed in Na.Ka.No.3483/A1/2017, dated 28.12.2017, is quashed insofar as it denies approval of appointment of the petitioner from the date of her appointment as a Secondary Grade Teacher is concerned. Consequently, there shall be a direction to the respondents 1 and 2 to approve the petitioner's appointment as Secondary Grade Teacher i.e., from 01.06.2012 in the third respondent school and disburse all the service and monetary benefits arising there of, if otherwise entitled to, within a period of eight weeks from the date of receipt of a copy of this order.

6.This writ petition stands allowed, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM

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,
Tirunelveli, Tirunelveli District.

2.The Block Educational Officer,
Tirunelveli Town, Tirunelveli District.

+1 CC to M/s.T.PON RAMKUMAR, Advocate SR-12037[F] dated 17/03/2021

+1 CC to M/s.SPL GP (SR-12267[F] dated 18/03/2021)

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17.03.2021

SGS (CO)

TR(15.04.2021) 4P 5C