



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.1261 of 2013

and

M.P(MD)No.1 of 2013

M.Thenmozhi

... Appellant / Writ Petitioner

Vs.

01.The State of Tamilnadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Fort St. George, Chennai - 600 009.

02.The Director of School Education,
DPI Compound, Chennai.

03.The Chairman,
Teacher Recruitment Board,
E.V.K. Sampath Maligai, DPI Compound,
Chennai.

04.The District Employment Officer,
Sivagangai District,
Sivagangai.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent,
against the order dated 29.10.2013 passed in W.P(MD)No.17617 of
2013.

Prayer in WP(MD). 17617/ 2013 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court to issue a Writ of
Mandamus or any other appropriate writ, order or direction in the
nature of Writ Mandamus directing the respondents herein
respondents to appoint the petitioner as Secondary Grade Teacher
with all consequential benefits based on the certificate
verification made on 01.06.2009 as per Notification issued by the
3rd respondent in vide No.5015/A4/2008, dated 14.05.2009 without
insisting the qualification of Teachers Eligibility Test .

For Appellant

: Mr.AL.Kannan

For R1, R2 and R4

: Mrs.S.Srimathy,

Special Government Pleader.

For R-3

: Mr.VR.Shanmuganathan,

Special Government Pleader



JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

This Writ Appeal is directed against the dismissal order passed in W.P(MD)No.17617 of 2013 dated 29.10.2013.

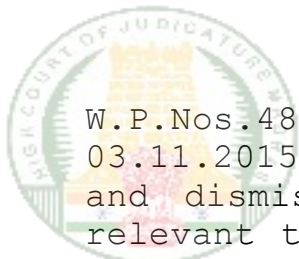
2. The case of the appellant / writ petitioner is that she completed her D.T.Ed., in the year 2004, did B.Lit(Tamil) in 2008, had done B.E., in the year 2010 and completed M.A degree also and registered her name with the Employment Exchange as early as on 05.04.2004. The Teachers Recruitment Board called for list of candidates from Employment Exchange in the year 2009 and the Employment Exchange had also sponsored a list of eligible candidates including the appellant's name to the Board and the appellant was called for certificate verification held on 01.06.2009. The appellant had also attended the certificate verification and she was informed that she will be informed about her place of posting. Thereafter, NCTE framed minimum educational qualification vide notification dated 23.08.2010. As per the said notification, the candidates whose selection process is commenced prior to 23.08.2010, their appointment may be made in accordance with the provisions contained in NCTE(Determination of minimum qualifications for recruitment of teachers in Schools) Regulations, 2001, that does not prescribe the TET as a qualification for appointment to the post of Secondary Grade Teacher. However, when the appellant approached the third respondent with regard to her appointment, she was orally informed that she is not eligible for the Post unless and until she clears the Teachers Eligibility Test.

3. Hence, the appellant / writ petitioner has sought for a Mandamus, directing the respondents to pass orders to appoint her as Secondary Grade Teacher with all consequential benefits based on the certificate verification made on 01.06.2009 as per the notification issued by the District Employment Officer, Sivagangai District, without insisting the qualification of Teachers Eligibility Test.

4. The writ petition was dismissed by the learned single Judge in the light of the order passed in W.P(MD)No.15595 of 2013 etc. batch, wherein a similar request was rejected by this Court, vide common order dated 25.09.2013.

5. Heard the learned counsel appearing for the appellant and the learned Special Government Pleaders appearing for the respondents.

6. When a similar issue raised before the Division Bench in



W.P.Nos.4827 & 18793 of 2012 etc. batch, vide judgment dated 03.11.2015, the Division Bench had discussed the issue in detail and dismissed the writ petitions and the writ appeals. It is relevant to extract Paragraph No.17(xvi) of the said judgment as follows:

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"17(xvi)..... The petitioner do not dispute the settled legal principle that selected candidates have no vested right to secure an appointment and their case is that appointment shall not be denied arbitrarily. Further, the petitioners would state that they are not aggrieved by G.O.Ms.No.181, dated 15.11.2011, which made it mandatory to possess TET and therefore, they would state that they need not be challenged G.O.Ms.No.181. The contention put forth by the petitioners is self destructive. Once it is admitted that even a selected candidate has no vested right for appointment, that being the settled legal position, petitioners who were never selected would have no semblance of right to insist that the respondents should appoint them in respect of certain vacancies, which were notified under the Government Order, since recruitment process commenced prior to 23.08.2010. At this stage useful reference may be made to the decision of the Hon'ble Supreme Court in the case of State of M.P. vs., Sanjay Kumar Pathak reported in 2008(1) SCC 456, and the decision in the case of East Coast Railways vs. Appa Rao reported in (2010) 7 SCC 678, wherein the Hon'ble Supreme Court pointed out that it is trite that though names of persons appears in the select list, the same by itself would not give rise to a legal right unless the action on the part of the State is found to be unfair, unreasonable or malafide. The State, thus, subject to acting bonafide as also complying with the principles laid down in Articles 14 and 16 of the Constitution of India is entitled to take a decision not to employ any selected (sic candidate) even from amongst the select list."

7. Further, there is no age limit for writing Teachers Eligibility Test(TET) and the appellant / writ petitioner could have qualified herself by writing the same, as it is mandatory for the selection and appointment. Instead of competing on merits, she has sought for a Mandamus, to exempt her from writing the said examination, which is not permissible.

8. In view of above, there is no merit in this writ appeal and accordingly, the same is dismissed and the order of the learned



Single Judge is confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar (CS)

pm

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

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School Education Department,
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Chennai - 600 009.

02.The Director of School Education,
DPI Compound, Chennai.

03.The Chairman,
Teacher Recruitment Board,
E.V.K. Sampath Maligai, DPI Compound,
Chennai.

04.The District Employment Officer,
Sivagangai District,
Sivagangai.

**Judgment made in
W.A (MD) No.1261 of 2013
20.01.2021**

KM (04.02.2021) 4P 5C