



WP(MD)No.11416 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.07.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)No.11416 of 2021

M.Ayyerkalai

... Petitioner

/vs./

1.The Chief Educational Officer,
Pudukottai District.

2.The District Educational Officer,
Pudukottai, Pudukottai District.

3.The Secretary,
M.CT.RM.Ramanathan Chettiar Higher Secondary School,
Kulipirai,
Pudukottai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the respondents from insisting the petitioner to produce Teachers Eligibility Test pass certificate and to direct the respondents to release the yearly increments, incentive increments, surrender leave benefits and other entitled benefits from the date of appointment i.e from 27.06.2011 and to pay continuously to the petitioner.



WP(MD)No.11416 of 2021

WEB COPY

For Petitioner : Mr.V.Panneer Selvam
For Respondents : Mr.S.Shaji Bino
Special Government Pleader (for R1 & R2)

ORDER

The petitioner seeks forbearance of the respondents from insisting the petitioner to produce the Teachers Eligibility Test pass certificate and seeks for release of the yearly increments, incentive increments, surrender leave benefits and other entitled benefits.

2.The ground raised by the respondents in their counter affidavit is that it is mandatory for such Teachers to pass the Teachers Eligibility Test for consideration of such service and monetary benefits. In support of such contention, the learned Special Government Pleader appearing for the respondents would rely upon the Government Order, in G.O.Ms.No.181, School Education Department, dated 15.11.2011, which emphasizes that the National Council for Teachers Education, being the academic authority, has laid down the minimum qualifications and guidelines for a teacher, which includes pass in the



WP(MD)No.11416 of 2021

Teacher Eligibility Test, as one of the minimum qualifications for holding the post of Teacher.

3.The issue involved in this writ petition pertains to a Teacher, who hails from Non-Minority School. The only issue involved in this writ petition is as to whether the Teacher Eligibility Test (TET) qualification for the Teachers is a mandatory condition for consideration of disbursement of the yearly increment as well as other monetary and service benefits.

4.The aforesaid issue is no more res integra. The Hon'ble Division Bench of this Court, in the case of **Secretary to Government, Government of Tamil Nadu, Education Department, Fort St.George, Chennai Vs., S.Jeyalakshmi** reported in **(2016) 5 CTC 639** had held that the provisions of the RTE Act are not applicable to the minority Aided School, insofar as it relates to Teachers appointed prior to 15.11.2011. The Government in G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011 had specified that the teachers, who do not possess the minimum qualification of pass in the TET, shall acquire the same within a period of five years. While construing G.O.Ms.No.181, a



WP(MD)No.11416 of 2021

WEB COPY

learned Single Judge of this Court, in a batch of writ petitions in **W.P(MD)No. 5626 of 2017 etc.**, dated **08.03.2019**, had held that, the cut off date for acquiring the TET qualification would be the date of notification for appointment and that, the Teachers who were appointed prior to that date need not pass the TET examination. The relevant portion of the said order reads as follows:-

'10.However, there is no cut off date specified in the said G.O.Ms.No. 181, with regard to acquiring the qualification of pass TET to continue in service as B.T Assistants /Secondary Grade Teachers, who are working as such in the respondent Schools. In this regard, a cursory glance at Clause (5) of the notification dated 23.08.2010 and its amended notification dated 29.07.2011 issued by the NCTE, the contents of which are reproduced at paragraph Nos.8.2 and 8.4 above, would reveal that if the process of appointment of teachers was initiated prior to the date of notification by issuing advertisement, such appointments have to be made in accordance with NCTE (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001 and the same was amended with effect from 29.07.2011. As per the said NCTE Regulations 2001, there is no qualification prescribed with regard to possession of TET certificate, for



WP(MD)No.11416 of 2021

WEB COPY

appointment to the post of B.T Assistant and Secondary Grade Teachers. The qualification of passing TET was first introduced by the notification dated 23.08.2010 and it was amended vide notification dated 27.09.2011. Thus, it could be inferred that the cut off date for acquiring the TET qualification is 27.09.2011 and the teachers, who were appointed prior to that date need not pass TET and even in the case of the teachers who were appointed after that date, if the advertisement to initiate the process of appointment of teachers was made prior to that date, then, their appointments also can be in accordance with the NCTE Regulations 2001 and they need not acquire the TET qualification.'

5. In the instant case, the Teacher was appointed on 27.06.2011, which is prior to 15.11.2011 and by applying the ratio laid down by this Court in the aforesaid order dated 08.03.2019 and by taking into consideration that the teacher was also appointed prior to the notification, it has to be held that the requirement of a pass in TET examination, is not mandatory. As such, denial of the service and monetary benefits on the ground that the concerned Teacher has not passed the TET examination is not sustainable. By applying the ratio laid down in the aforesaid decision, this Court is of the affirmed view that the petitioner would be



WP(MD)No.11416 of 2021

entitled for disbursement of all the service and monetary benefits, without reference to his non-passing of the TET examination, from the date of his appointment.

6.In the light of the above findings, the respondents are directed to disburse all the service and monetary benefits including yearly increments, incentive increments, surrender leave benefits, to the petitioner, from the date of his appointment, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

7.Accordingly, this Writ Petition stands allowed. No costs.

28.07.2022
(4/4)

Index : Yes / No
Internet : Yes / No
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WP(MD)No.11416 of 2021

WEB COPY

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- 2.The District Educational Officer,
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WEB COPY



WP(MD)No.11416 of 2021

M.S.RAMESH, J.

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Order made in
W.P.(MD)No.11416 of 2021
(4/4)

Dated:
28.07.2022