



WEB COPY

W.P.(MD)No.24522 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.04.2022
CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P. (MD)No.24522 of 2016

and

W.M.P. (MD)No.17684 of 2016

S.Maheswari

... Petitioner

vs.

1.The National Council for Teacher Education,
Hans Bhawan, Wing II,
1, Bahadur Shah Zafar Marg,
New Delhi- 110 002,
represented by its Member Secretary.

2.The Secretary to Government,
School Education Department,
Fort St.George, Chennai.

3.The District Education Officer,
Tenkasi, Tirunelveli District.

4.The Secretary,
Gramma Committee Higher Secondary School,
Venkateshwarapuram, Alangulam Taluk,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 3rd respondent in Mu.Mu.No.4777/A1/2016, dated .11.16 and to quash the same and further, to direct the 3rd respondent to approve petitioner's appointment as B.T.Assistant (Science) with effect from 23.10.2013 in the 4th respondent School and pay all monetary and service benefits with arrears.

For Petitioner : Mr.H.Arumugam

For Respondents : Mr.V.Om Prakash

Government Advocate (Civil side)

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order of the 3rd respondent in Mu.Mu.No.4777/A1/2016, dated .11.16 and further, to direct the 3rd respondent to approve petitioner's appointment as B.T. Assistant (Science) with effect from 23.10.2013 in the 4th respondent School and pay all monetary and service benefits with arrears.



2. The brief facts of the case are that the fourth respondent School is an Aided Private Non-Minority School receiving grant-in-aid up to 10th standard and the Higher Secondary School is self-financing. One Secondary Grade Teacher Post fell vacant due to voluntary retirement of one Mr. T. Ravichandran on 31.07.2012. Thereafter, the third respondent recommended to convert the post as B.T. Assistant as per G.O.Ms.No.100, School Education Department (Finance), dated 27.06.2003. The Chief Educational Officer, vide proceedings, dated 16.09.2013, created a post as B.T. Assistant (Maths) and converted the same as B.T. Assistant (Science) and permitted the fourth respondent to fill up the vacancy of B.T. Assistant (Science). The fourth respondent School called for list from the District Employment Exchange to sponsor candidates with TET qualification. The District Employment Exchange submitted only one candidate, vide proceedings, dated 26.09.2013. However, the said candidate did not possess TET qualification. Thereafter, the fourth respondent invited application by issuing notification in Dinamalar daily, dated 07.10.2013. Thereafter, an interview was held on 21.10.2013. All the candidates appeared before the fourth respondent School did not possess TET qualification. Since the petitioner secured high mark, the petitioner was selected and appointed as B.T. Assistant (Science) with a condition that the petitioner should pass the TET examination within 31.03.2015. He joined the School on 23.10.2013.

3. The fourth respondent School submitted the proposal for approval of appointment to the third respondent but, the third respondent has kept the file pending for more than three years. Thereafter, passed the impugned order, dated .11.2016, rejecting the proposal stating that since the petitioner did not pass TET, the appointment cannot be approved. Since the petitioner's appointment was not approved, the present Writ Petition is filed seeking to approve the appointment and to grant all monetary benefits. Pending this Writ Petition, the petitioner passed the TET qualification on 30.10.2019. The learned Counsel appearing for the petitioner submitted that the respondents have approved the appointment and is paying the salary. However, the annual increment and other increments were not paid to the petitioner.

4. The respondents relied on the impugned order and submitted that at the time of appointment, the petitioner was not possessing TET qualification. The NCTE granted an opportunity to all the Teachers to qualify the TET examination within 31.03.2015. Thereafter, the Act was amended in the Parliament during 2017 and the further extension of four years was granted with a retrospective effect from 01.04.2015 to 31.03.2019. The respondents also took a stand that in the present case, since the petitioner has passed the TET qualification, only after the said cut-off date, i.e., 30.10.2019, so the petitioner is not entitled to any benefits.



5.Heard Mr.H.Arumugam, learned Counsel appearing for the petitioner and Mr.V.Om Prakash, learned Government Advocate appearing for the respondents and perused the records placed before this Court.

6. It is seen that the Act itself provides for extension of time to acquire the qualification of TET. However, the limitation was over by 31.03.2019. In the present case, the petitioner has qualified TET on 30.10.2019. There are more than 18,000 Teachers, who were appointed without TET and are still continuing in the service. In the present case, since the petitioner has completed TET, the petitioner ought to be considered for approval and to grant further benefits by condoning the delay of seven months to acquire TET qualification.

7. Therefore this Court is inclined to grant the relief of approval as well as the further benefits. Hence, the impugned order is set aside. Since the learned Counsel appearing for the petitioner submitted that the petitioner is receiving the salary and only the increments are not paid, the respondents are directed to pay the increments from the date of original appointment, i.e., 23.10.2013. Even though the petitioner passed on 30.10.2019, the petitioner is eligible to be approved and eligible for monetary benefits from the date of original appointment, dated 23.10.2013. Therefore, if any monetary benefits are left out, the respondents are directed to pay from the date of original appointment, i.e., 23.10.2013. The respondents are directed to pass orders within a period of 4 (four) weeks from the date of receipt of the copy of the order.

8.With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Tmg

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.

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



To

- 1.The Member Secretary,
National Council for Teacher Education,
Hans Bhawan, Wing II,
1, Bahadur Shah Zafar Marg,
New Delhi- 110 002,
- 2.The Secretary to Government,
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- 3.The District Education Officer,
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- 4.The Secretary,
Gramma Committee Higher Secondary School,
Venkateshwarapuram, Alangulam Taluk,
Tirunelveli District.

+1 CC to M/s.H. ARUMUGAM, Advocate (SR-19895[F] dated 20/04/2022)

+1 CC to M/s.SPL.GP. (SR-19763[F] dated 20/04/2022)

19.04.2022

MGJ(25.05.2022) 4P 7C