



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.27119 of 2019

and

W.M.P. (MD) No.23449 of 2019

R.Ramalakshmi

... Petitioner

-vs-

1. The State Commissioner For Differently Abled Person,
O/o. The State Commissioner For Differently Abled Person,
K.K.Nagar, Chennai-78.

2. The District Differently Abled Welfare Officer,
Tirunelveli District.

3. The Correspondent,
Gandhigram Santhi High School For Deaf,
Sivasailam, Alwarkurichi (Via),
Tirunelveli District.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondents to pay salary to the petitioner without insisting upon the passing of TET examination and continue to pay the same in the cadre of B.T.Assistant.

For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For RR1 & 2 : Mr.G.V.Vairam Santhosh
Additional Government Pleader

O R D E R

The relief sought for in the present writ petition is to direct the respondents to pay salary to the petitioner without insisting upon the passing of TET examination and continue to pay the same in the cadre of B.T. Assistant.



2. The petitioner is working as B.T. Assistant in the 3rd respondent aided school. Admittedly, the petitioner has not passed the mandatory requisite qualification of Teacher Eligibility Test (TET). Thus, the petitioner is constrained to move the petition seeking exemption from passing the TET examination and sought for a direction to pay the salary without insisting for TET.

3. The issue regarding passing of TET is no more *res integra*. This Court passed several orders on earlier occasion. TET being an essential qualification for appointment to the teaching post, the same cannot be dispensed with or any exemption can be granted to individuals. The recent judgment of this Court in W.P.No.28284 of 2021 etc., batch dated 07.04.2022 reveals that the issue was elaborately discussed and the Court passed the following order:-

*"20. The fact remains that despite lapse of many years i.e., almost twelve years after the enactment of RTE Act, 2009, the said statutory provision has not been complied with, the petitioners and teachers are allowed to continue in service without possessing the minimum eligibility condition of pass in TET, as per Section 23 of the RTE Act, 2009 and also as per the RTE (Amendment Act), 2017. It is mandatory for the teachers, who did not possess the minimum qualification of pass in TET prior to RTE Act, 2009 to acquire the same within the period of nine years i.e., on or before 31.03.2019. Thus, the teachers, who do not possess the minimum qualification of pass in TET are not entitled to continue their service in the schools/educational institutions. **Therefore, the issue is answered as against the writ petitioners.***

21. Education is a process of acquiring knowledge and skills in general, and the field of teachers' education is special. Quality teachers' education is the need of the hour. Effective teaching depends on the teacher with updated knowledge, skills and technology. The main purpose of the Teacher Eligibility Test (TET) is to assess the candidate's aptitude for the profession, that is, to assess the teachers whether they have adequate teaching competency and a positive attitude towards teaching or not. The rationale for including the TET as a minimum eligibility criterion for a person to be appointed as a teacher is to bring national standards and benchmark for quality in the recruitment process and to lay special emphasis on teachers' quality. It is necessary to ensure teachers with the essential aptitude and ability are recruited to meet the challenges of teaching and for the benefit of student community at



large, the teachers should be competent enough with national standards. This would ensure that despite alternate pathways open to become teachers, standards of teaching are maintained.

22. It is one of the contentions of the learned counsel for the petitioners that as per Clause 11 of the NCTE guidelines dated 11.02.2011, the appropriate Government should conduct TET at least once in every year, but the State Government is not conducting TET examination every year, therefore, appropriate direction may be given to the State Government to suitably instruct Teachers Recruitment Board for conducting TET examination every year, so as to enable the teachers to qualify themselves in TET.

23. In response to the same, Mr.S.Silambanan, learned Additional Advocate General, on instructions, that Teachers Recruitment Board has notified for conducting TET examinations in the month of June 2022 and teachers, who have not qualified themselves in TET, shall participate in the ensuing TET examinations.

24. Mr.R.Sankaranarayanan, learned Additional Solicitor General, on instructions, would submit that the extended time limit of further period of four years as per the RTE (Amendment) Act, 2017, had expired on 31.03.2019 and the Central Government has not considered any request for further extension of time and would add that only by way of amendment to Section 23 of the RTE Act, further extension of time can be made and if such request is mooted out by the State Government, it is for the Central Government to consider the same. not to have stopped annual increments paid to the petitioners. The third respondent has clearly stated in the counter affidavit that since the petitioners do not possess the minimum qualification of pass in TET as per the guidelines of TET and in the absence of TET, no incentives can be granted to the petitioners.

26. As discussed above and recording the stand taken by the third respondents in the counter affidavit and that despite lapse of nearly 12 years from the date of the notification of the Act, the petitioners did not acquire the minimum qualification of pass in TET and therefore, in the light of Section 23 of the RTE Act, the petitioners are not entitled to any annual increment and the relief sought for by the petitioners is liable to be rejected.



27. In view of the aforesaid reasons and discussions, this Court passes the following order:

(i) The relief sought for by the petitioners is rejected.

(ii) The respondents are directed to ensure strict compliance of the instructions issued by the Principal Secretary to Government, School Education Department, Chennai-9, vide Letter No.2343/MS/2019-1 dated 02.05.2019, failing which appropriate action shall be taken in accordance with law.

(iii) The respondents are also directed to ensure strict compliance of the Guidelines issued by NCTE dated 11.02.2021, by conducting TET examination once in every year, so as to enable the teachers to qualify themselves in TET.

(iv) It is open to the first respondent to seek appropriate remedy before the fifth respondent, if required."

4. In view of the fact that TET became the requisite qualification to hold the teaching post in the Education Department, more specifically in schools, the petitioner's request for grant of exemption or not to insist the TET qualification cannot be considered and the writ petition is liable to be rejected.

5. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar (C.O)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

abr

To

1. The State Commissioner For Differently Abled Person,
O/o. The State Commissioner For Differently Abled Person,
K.K.Nagar, Chennai-78.



2. The District Differently Abled Welfare Officer,
Tirunelveli District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-22876[F] dated
29/04/2022)

+1 CC to M/s.SPL. GP (SR-23009[F] dated 29/04/2022)

W.P. (MD) No.27119 of 2019
27.04.2022

_SS/25.05.2022 : 5P/5C