



W.P.No.13371 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.13371 of 2015 and
MP.No.3 of 2015 and WMP.No.14880 of 2023

P.Bhuvaneswari

... Petitioner

Vs.

1.The Government of Tamilnadu

Represented by Secretary to Government,
Education Department,
Secretariat, Chennai 600 009

2.The Director of Elementary Education,
College Road, Chennai 600 006

3.The District Elementary Educational Officer(Incharge),
Tirunelveli

4.The Secretary,
St.Xavier's Middle School,
Adivaram, Ambasamudram Taluk,
Tirunelveli District

(R4 is impleaded as per order dated
02.06.2015 in MP.No.4 of 2015 in
WP.No.13371 of 2015)

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the records from the third respondent in the petitioner proceedings O.Mu.No.3726/A2/2012 dated 12.09.2012 quash the same and to issue consequential direction directing the respondents to approval of the



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petitioner appointment for the post of B.T.Assistant(Maths) and to disburse the arrears of salary along with all benefits to the petitioner with effect from 01.06.2012.

For Petitioner : Mr.A.Esakkiappan

For Respondents

For R1 to 3 : Mr.K.H.Ravikumar,
Government Advocate

For R4 : No appearance

ORDER

This writ petition has been filed challenging the order passed by the third respondent dated 12.09.2012 thereby returned the request made to approve the appointment of the petitioner on the ground that the petitioner failed to qualify in the Teacher Eligibility Test.

2. Heard, the learned counsel appearing on either side.

3. The petitioner was appointed as BT Assistant (Maths) in the fourth respondent school on 01.06.2012 based on the the permission granted to fill up the said vacancy by the third respondent's proceedings



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dated 27.04.2012. The fourth respondent had sent a proposal dated 19.06.2012 for approval of her appointment to the post of BT Assistant (Mathss). It was returned on the ground that the petitioner failed to complete the Teacher Eligibility Test. In view of the interim order passed by this Court, the petitioner is continuing in the said post and receiving salary. The fourth respondent is a non-minority institution and an aided school. Therefore, the petitioner is receiving salary from the first respondent. While pending the writ petition, the petitioner is qualified with Teacher Eligibility Test on 12.02.2023. It was also communicated to the third respondent.

4. The issue of pass in Teacher Eligibility Test has been decided by this Court in a batch of writ petitions, in which it is held that any teacher appointed as Secondary Grade Teacher or Graduate Teacher / BT Assistant prior to 29.07.2011 shall continue in service and also receive increments and incentives even if they do not possess/acquire a pass in Teacher Eligibility Test and any appointment made after 29.07.2011, they must necessarily possess Teacher Eligibility Test. However, it will not have applications to minority schools, both aided



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and un-aided schools. That apart, it is worthwhile to note that as stated in Section 23(2) of Right of Children to Free and Compulsory Education Act, they were appointed without qualifying any Teacher Eligibility Test. The amendment to Right of Children to Free and Compulsory Education Act on 09.08.2017 by Act No.24 of 2017 came into force from 01.04.2015, and thereby amended that every teacher appointed or in possession as on 31.03.2015, who does not possess minimum qualifications as laid down under Sub-Section (1) of 23 shall acquire such minimum qualification within a period of four years from the date of commencement of Right of Children to Free and Compulsory Education (Amendment) Act, 2017. Therefore, even assuming that GO.Ms.No.181 dated 15.11.2011 is applicable to the minority institutions, as per the amendment of the above Act, further four years time has been extended from commencement of the Act i.e. till 31.03.2019. Thereafter, the Teacher Eligibility Test has been conducted only in the year 2022, in which the petitioner had acquired pass in the Teacher Eligibility Test on 12.02.2023. Therefore, the petitioner is qualified to be appointed as BT Assistant(Maths).



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5. In view of the above, the impugned order is liable to be quashed. Accordingly, the impugned order passed by the third respondent dated 12.09.2012 is quashed and this writ petition is allowed. The third respondent is directed to approve the appointment of the petitioner from the date of her appointment i.e. 01.06.2012. It is needless to say that the petitioner is entitled for all service and monetary benefits from the date of her appointment. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

12.09.2023

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

1. Secretary to Government,
The Government of Tamilnadu
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2. The Director of Elementary Education,
College Road, Chennai 600 006
3. The District Elementary Educational Officer(Incharge),
Tirunelveli
4. The Secretary,
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Adivaram, Ambasamudram Taluk,
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5. The Government Advocate,
High Court, Madras.

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