



W.P.No.15015 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2023

CORAM:

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

W.P.No.15015 of 2013
and M.P.No.3 of 2013

D.Dhananjayan

...Petitioner

-Vs-

1. The Director of School Education,
Chennai – 600 006.
2. The District Educational Officer,
Tindivanam, Villupuram District.
3. The Secretary,
Thiruvalluvar Higher Secondary School,
Karuvampakkam and Post,
Tindivanam Taluk,
Villupuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the second respondent in his proceedings Na.Ka.No.9005/A2/2011, dated 21.05.2013 and quash the same and direct the respondents to confer all the consequential benefits to the petitioner.



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For Petitioner : Mr.S.Thendral
For M/s.C.S.Associates

For Respondents
For R1 & R2 : Mr.L.S.M.Hasan Fikal
Additional Government Pleader

ORDER

The writ petition has been filed challenging the order dated 21.05.2013 passed by the second respondent in his proceedings Na.Ka.No.9005/A2/2011, thereby cancelled the approval of the petitioner's appointment to the post of B.T. Assistant, History.

2. The petitioner was appointed as B.T. Assistant on 09.12.2011, in the vacancy arose on the third respondent school. The third respondent had forwarded the proposal for approval of the petitioner's appointment before the second respondent and it was approved by the proceedings dated 20.04.2012. However, the approval was subsequently cancelled by the second respondent by the proceeding dated 21.05.2013 on the ground that the petitioner did not possess Teachers Eligibility Test. Hence, the petitioner filed this present writ petition with the above said prayer.



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3. Heard the learned counsel appearing on either side and perused the material placed on record.

4. In similar mater, the Hon'ble Division Bench of this Court in the batch of *Writ Appeals in W.A.No.313 of 2022 etc.*, dated **02.06.2023** in the case of the *Director of School Education & ors Vz. M.Velayutham & anr.*, held that cut-off date to be fixed in G.O.Ms.No.181 dated 15.11.2011 to pass the qualifying examination viz., teachers eligibility test. Accordingly, those who were appointed as teacher after the G.O., have to pass the said examination in accordance with G.O. Further held that those who were appointed prior to 29.07.2011 are exempt from passing TET only for the purpose of continuance in the post of secondary grade teacher or B.T. Assistant without promotional prospects. The relevant portion of the order is extracted hereunder :-

“74. For the sake of clarity and ease of reference, the upshot of the above discussion is as under:

(a) Any teacher appointed as Secondary Grade Teacher or Graduate Teacher/BT Assistant prior to



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29.07.2011 shall continue in service and also receive increments and incentives, even if they do not possess/acquire a pass in TET. At the same time, for future promotional prospects like promotion from secondary grade teacher to B.T. Assistant as well as for promotion to Headmasters, etc., irrespective of their dates of original appointment, they must necessarily possess TET, failing which they will not be eligible for promotion.

(b) Any appointment made to the post of Secondary Grade Teacher after 29.07.2011 must necessarily possess TET.

(c) Any appointment made to Graduate Teacher/BT Assistant, after 29.07.2011, whether by direct recruitment or promotion from the post of Secondary Grade Teacher, or transfer, must necessarily possess TET. The principles laid down in this judgment will not have application to minority schools, both aided and unaided as explained in paragraph no.71.1.

(d) The Special Rules for the Tamil Nadu School Educational Subordinate Service issued in GO (Ms.) No.13 School Education (S.E3(1)) Department dated 30.01.2020 insofar as it prescribes “a pass in Teacher Eligibility Test (TET)” only for direct recruitment for the post of BT Assistant and not for promotion thereto in Annexure-I (referred to in Rule 6) is struck down,



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thereby meaning that TET is mandatory/essential eligibility criterion for appointment to the post of BT Assistant even by promotion from Secondary Grade Teachers.

(e) The language employed in G.O. (Ms) No. 181 dated 15.11.2011 is to be read and understood to the effect that for continuance in service without promotional prospects, TET is not mandatory.”

5. Admittedly the petitioner was appointed in the third respondent school on 09.12.2011. It is an aided private school. Therefore, the principal laid down in the above judgment applicable to the case of the petitioner. Further the petitioner did not possess the qualification of Teachers Eligibility Test. Since the petitioner was appointed on 09.12.2011, as per the G.O., the second respondent rightly cancelled the approval of the petitioner's appointment. Therefore, this Court finds no infirmity or illegality in the order passed by the third respondent and the writ petition is devoid of merits and liable to be dismissed.



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6. Accordingly, the Writ Petition stands dismissed.

Consequently, connected miscellaneous petition is closed. There shall be no order as to cost.

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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

rts



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