



W.P.No.4909 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2023

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.4909 of 2020
and W.M.P.Nos.5806 of 2020

K.Alamelu

...
/vs/

Petitioner

1. The Govt. of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Fort St. George,
Chennai – 600 009.
2. The Director of Elementary Education,
College Road,
Chennai – 600 006.
3. The District Educational Officer,
Vriddhachalam,
Cuddalore District.
4. The Block Educational Officer,
Kammapuram – 606 103.
5. The Secretary,
Aided Elementary School,
U.Kombadi Kuppam,
Kammapuram,
Vriddhachalam Taluk,
Cuddalore District – 607 804.

... Respondents



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Writ Petition is filed under Article 226 of the Constitution of India

to issue a writ of certiorarified mandamus to call for the records relating to the order of the 3rd respondent made in his proceedings in Na.Ka.No.10060/A3/2018, dated 22.01.2019 and quash the same and direct the respondents 1 to 4 to approve the appointment of the petitioner in the 5th respondent school from the date of her appointment and consequently direct the respondents to pay the salary to the petitioner with arrears of salary.

For Petitioner ... Mr.A.S.Kaizer

For Respondents ... Mr.G.Nanmaran,
Special Govt. Pleader

ORDER

This Writ Petition has been filed to quash the order of the 3rd respondent made in his proceedings in Na.Ka.No.10060/A3/2018, dated 22.01.2019 and direct the respondents 1 to 4 to approve the appointment of the petitioner in the 5th respondent school from the date of her appointment and consequently direct the respondents to pay the salary to the petitioner with arrears of salary.



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2. The petitioner has been appointed as Secondary Grade Teacher on 09.07.2014 at the fifth respondent aided school. The petitioner's appointment was not approved for the reason that she did not pass Teacher Eligibility Test (TET). Hence the petitioner and like others have filed writ petitions seeking appropriate reliefs. However aggrieved by the orders passed in the writ petitions, the Government has filed batch of Writ Appeals and in which the following directions have been given:

“i) The Teachers herein, who have been appointed subsequent to the issuance of the Government Order are granted one opportunity to appear for the Teacher Eligibility Test to be conducted by the Teachers Recruitment Board and in the event of their passing in the Teacher Eligibility Test, their appointments shall be approved else, they have no other option out to quit the service/ousted from service:

ii) Till the results are published, the Government shall pay the salary to the Teachers, who are in service of the aided institutions, for the services rendered by them and in the cases where salary was not paid the same shall be paid along with arrears, if any, forthwith;

iii) Learned Advocate General submitted that salary has been paid to most of the Teachers and only a few were not paid, for want of particulars. In such a case, the Teachers whose salary have not been paid for want of particulars, they shall furnish the requisite particulars immediately, so to enable the Government pay the salary immediately;

iv) Insofar as W.P.No. 7593 of 2015 is concerned, though the writ petitioner has qualified with a pass in Teacher Eligibility Test during 2013, she has not been paid the difference of salary from the date of



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appointment, til the date of passing of the Teacher Eligibility Test. In view of the discussions aforesaid, the Government is directed to pay the difference of salary within a period of four weeks from the date of receipt of a copy of this order: and

v) The Teachers Recruitment Board is directed to take note of the above observations and to issue notification for conducting Teacher Eligibility Test on or before the end of February, 2017, indicating the date of exam to be either in the last week of March, 2017 or in the first week of April 2017.”

But in compliance of the said order no Teacher Eligibility Test was conducted in order to enable the petitioner and similarly placed persons to participate in the examination.

2.1 Since the petitioner was not given with salary he had filed another writ petition in W.P.No.33451 of 2017 and in which a direction has been given to consider the representation of the petitioner for payment of arrears of salary. The Government has extended the outer limit for conducting the examination till 31.03.2019. No examination has been conducted even before the said date. Hence the similarly placed persons have once again approached the Court for seeking appropriate orders and in fact in connected writ appeal in W.A.No.1723 of 2019 & batch, it has



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been observed that no TET has been conducted subsequent to the year 2017 and the next examination is scheduled to be conducted on June 8th and 9th of 2019. Opportunity was given to the petitioners and others to participate in the said examination and interim injunction has also been granted not to terminate the teachers till the dismissal of the writ appeal.

2.2 The petitioner who had participated in the TET conducted in the year 2019, did not qualify herself by passing the said examination. The petitioner got qualified only in the year 2022. However the appointment of the petitioner was not approved for the reason that the petitioner did not qualify the examination before the cut off date. However the impugned order dated 22.01.2019 is before the cut off date of 31.03.2019. Various reasons have been stated for rejecting the approval of the petitioner's appointment and one among several reasons is non-qualification of TET.

3. Mr.A.S.Kaizer, the learned counsel for the petitioner, submitted that before the cut off date fixed by the Court, no examination was conducted; the petitioner has been continuously working for nine years; the



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petitioner who did not qualify the next examination which was conducted pursuant to the orders of the Court has come out with a claim at a belated stage that her qualification in the year 2022 should have been considered favourably and her appointment ought to have been approved.

4. Mr.G.Nanmaran, the learned Special Government Pleader, submitted that when the petitioner herself is a party to the earlier proceedings and is aware of the fact that she had been given with only one opportunity and after having utilized the said opportunity did not pass in the examination, cannot make such claim; the Government has rightly rejected the proposal; the Court has given the opportunity of appearing for one Teacher Eligibility Test not only taking into consideration of the persons like the petitioners but also those teachers for whose appointment the Government has already given approval; in fact it is also brought to the knowledge of the Court that subsequent to the impugned order, the fifth respondent school has resubmitted the proposal but that was also rejected for the reasons stated in the order Na.Ka.No.170/ஆ4/2023 dated .04.2023.

5. Since the petitioner did not pass the qualified examination in



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the next examination conducted by the Teacher Recruitment Board but got qualified in the subsequent examination, it is up to the Government to consider the representation of the petitioner and workout any possibilities of considering the petitioner's case as a special case by giving any special exemption. However the petitioner is not precluded from applying for the said post since now she has the qualification of passing the Teacher Eligibility Test. The fifth respondent is at liberty to challenge the order in Na.Ka.No.170/ஆ4/2023 dated .04.2023, if it so prefers.

6. With the above observations, this Writ Petition is disposed. No costs. Connected miscellaneous petition is closed.

19.12.2023

Index: Yes / No
Speaking order / Non-speaking order
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R.N.MANJULA ,J.

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To:

1. The Principal Secretary to Government,
School Education Department,
Fort St. George,
Chennai – 600 009.
2. The Director of Elementary Education,
College Road,
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3. The District Educational Officer,
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