



WEB COPY



W.P.Nos.31967 to 31971 & 31973 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2023

CORAM:

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

W.P.Nos.31967 to 31971 & 31973 of 2013

M.P.Nos.1 & 2 of 2013 (6 Nos.) & M.P.No.1 of 2014 (6 Nos.)

W.P.No.31967 of 2013 :-

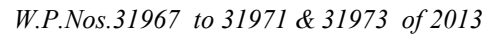
K.Boobalan

...Petitioner

-Vs-

1. The State of Tamil Nadu
Rep by Secretary to Government,
School Educational Department,
Secretariat,
Chennai – 600 009.
2. The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.
3. The Chief Educational Officer,
Nagapattinam.
4. The District Educational Officer,
Myladudhurai.
5. The Secretary,
Ramakrishna Higher
Secondary School,
Godhandapuram.

... Respondents



In all W.Ps.

For Respondents

For R5 : No appearance

All these writ petitions have been filed as against the order dated 07.11.2013, passed by the second respondent in Na.Ka.No.34116/D1/E4/2013 and subsequent proceeding issued by the fourth respondent in Na.Ka.Nos.6760 & 6761/A3/2013 dated 18.11.2013, thereby cancelling the approval of appointment and terminate the service of the petitioners.

2. All the petitioners were appointed as BT Assistant and their appointments were also approved by the respondents. The petitioners are



W.P.Nos.31967 to 31971 & 31973 of 2013

still continuing as B.T. Assistant in their respective schools. While being so, as per the Section 23 sub Section (1) and (2) of the Central Act No.35 of 2009, any person possessing such minimum qualification as laid down by an academic authority, authorized by the Central Government, by notification, shall be eligible for appointment as teacher. Further where a State does not have adequate institutions offering courses or training in teacher education, or teachers possessing minimum qualification as laid down under sub-section (1) are not available in sufficient numbers, the Central Government may, if it deems necessary, by notifications, relax the minimum qualifications required for appointment as a teacher, for such period, not exceeding five years, as may be specified in that notifications.

3. Accordingly, National Council for Teacher Education (NCTE) have been appointed as Academic authority and the said authority have issued notification dated 23.08.2010, thereby indicates to all the States to conduct Teachers Eligibility Test to a person to be appointed as teacher in primary and upper primary level at Government, local authority private aided and unaided schools and fixed minimum



W.P.Nos.31967 to 31971 & 31973 of 2013

qualification for a teacher. Therefore, the teachers eligibility test is mandatory qualification for a person to be appointed as teacher apart from the educational qualification prescribed under the Act.

4. Accordingly, the Government of Tamil Nadu issued government order in G.O.(Ms).No.181, School Education (C2) Department, dated 15.11.2011, and ordered that since the Academic authority viz., National Council for Teacher Education has indicated to all the States that the teachers, to be recruited in future for the elementary segment, should have passed the teachers eligibility test to be conducted by the appropriate government in accordance with the guidelines framed by the National Council for Teacher Education. Therefore, it is mandatory to pass the teachers eligibility test conducted by the Teachers Recruitment Board for getting appointment as teachers in the government schools.

5. As far as the petitioners are concerned, they are appointed during the year 2012. After the above Government Order came into force, the impugned proceedings have been passed thereby cancelling the



W.P.Nos.31967 to 31971 & 31973 of 2013

appointment of the petitioners and directed to be relieved from service.

According to the petitioners, the impugned orders have been passed without providing any opportunity to the petitioners in violation of principles of natural justice. Hence, the petitioners filed the present writ petitions.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. 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



W.P.Nos.31967 to 31971 & 31973 of 2013

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 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



W.P.Nos.31967 to 31971 & 31973 of 2013

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, 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.”

8. In the case on hand, all the petitioners were appointed to the post of B.T. Assistant in the year 2012. They were appointed after the said government order came into force dated 15.11.2011. Therefore, they must necessarily possess TET. In the light of the order passed by the



W.P.Nos.31967 to 31971 & 31973 of 2013

Hon'ble Division Bench of this Court in W.A.No.313 of 2022 batch, this Court finds no infirmity or illegality in the order passed by the respondents 2 & 4.

9. Accordingly, all the Writ Petitions stand dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to cost.

04.08.2023

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order

rts



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To

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School Educational Department,
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Chennai – 600 009.
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G.K.ILANTHIRAIYAN. J.

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