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W.P.Nos.33607 to 33610 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2023

CORAM:

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

W.P.Nos.33607 to 33610 of 2014

M.P.Nos.1 to 3 of 2014 (4 Nos.)

R.Ramani	...Petitioner in W.P. No.33607 of 2014
K.Vasudevan	...Petitioner in W.P. No.33608 of 2014
V.Lakshmi	...Petitioner in W.P. No.33609 of 2014
S.Sasi Kala	...Petitioner in W.P. No.33610 of 2014

-Vs-

1. The State of Tamil Nadu
Rep by its the 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,
Panagal Building,
Chennai – 600 015.
4. The Secretary,



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Kumarajah Muthiah Higher
Secondary School,
New No.4, Old No.7,
Crescent Avenue Road,
Gandhi Nagar, Adyar,
Chennai – 20.

... Respondents in
all W.Ps.

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the third Respondent herein in NA.KA.Nos: 9178/A6/2013, 9180/A6/2013, 9179/A6/2013 and 9177/A6/2013 respectively, Dated 17.07.2014 and quash the same as illegal and consequentially forbear the Respondents herein from insisting the petitioner herein to appear and qualify in the TET exam on or before 22.02.2016.

In all W.Ps.

For Petitioner : Mr.Vimal B. Crimson
For Respondents
For R1 to R3 : Mr.V.Veluchamy
Additional Government Pleader

COMMON ORDER

All these writ petitions have been filed as against the order dated 17.07.2014, passed by the third respondent in NA.KA.Nos: 9178/A6/2013, 9180/A6/2013, 9179/A6/2013 and 9177/A6/2013 respectively, thereby rejecting the request made by the petitioners to exempt them from passing teachers eligibility test (TET).



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All the petitioners were appointed as BT Assistant by an order dated 21.02.2011 and their appointments were also approved by an order dated 16.05.2011. They are still continuing as B.T. Assistant in the fourth respondent 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



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appointed as teacher in primary and upper primary level at Government, local authority private aided and unaided schools and fixed minimum 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 by an order dated 21.02.2011. After the above Government Order came



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into force, they made representation to exempt them from writing the teachers eligibility test. Since the same was not considered the petitioner approached this Court and this Court directed the third respondent to consider their representation in accordance with G.O.Ms.No.181 dated 15.11.2011. As directed by this Court, the third respondent rejected the request made by the petitioners. 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



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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 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



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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 on 21.02.2011. They were appointed before the said government order came into force dated 15.11.2011. Therefore, they are exempted from passing the teachers eligibility test for continuance of their service as B.T. Assistant without promotional prospects. In the light of the order passed by the Hon'ble Division Bench of this Court in the W.A.No.313 of 2022 batch, the impugned cannot be sustained and liable



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to be quashed.

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9. Accordingly, the order dated 17.07.2014, passed by the third respondent in NA.KA.Nos: 9178/A6/2013, 9180/A6/2013, 9179/A6/2013 and 9177/A6/2013 respectively, are hereby set aside. The petitioner in all writ petitions shall continue in service and also receive increments and incentives, even if they do not possess/acquire a pass in teachers eligibility test. At the same time, for future promotional prospects like 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.

10. With the above directions, all the Writ Petitions stand disposed of. Consequently, connected miscellaneous petitions are closed. There shall be no order as to cost.

28.07.2023

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

To



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