



W.P.(MD)No.3989 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.3989 of 2020

and

W.M.P.(MD)No.3389 of 2020

C.Jeyarani

: Petitioner

Vs.

- 1.The State of Tamilnadu
Rep. by its Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.
- 2.The Director of Elementary
Educational Officer,
College Road,
Chennai - 600 006.
- 3.The Chief Educational Officer
Tuticorin,
Tuticorin District.



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4.The District Educational Officer
Thiruchendur,
Tuticorin District

5.The Block Educational Officer
Thiruchendur,
Tuticorin District.

6.The Correspondent
Sathama Sama Middle School,
Madathuvilai,
Arumuganeri,
Tuticorin District - 628 202.

: Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the 3rd Respondent Chief Educational officer to approve forthwith the appointment of the petitioner as BT Assistant (Science) in the 6th Respondent school w.e.f. the date of petitioner's appointment viz. 11.07.2012 with all attendant benefits including the arrears of salary and allowance.

For Petitioner : Mr.K.Prabhu

For Respondents : Mr.T.Amjad Khan - for R1 to R5
Government Advocate



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ORDER

This writ petition has been filed to direct the 3rd Respondent Chief Educational officer to approve forthwith the appointment of the petitioner as BT Assistant (Science) in the 6th Respondent school w.e.f. the date of petitioner's appointment viz. 11.07.2012 with all attendant benefits including the arrears of salary and allowance.

2. The learned counsel for the petitioner submitted that the petitioner is working as a B.T. Assistant (Science) in the sixth respondent School, which is a recognized and aided Minority Educational Institution and the eligible criteria in respect of passing of the Teachers' Eligibility Test as stated in the Right of Children to Free and Compulsory Education Act, 2009, is not applicable to the sixth respondent School. Whiles, the first respondent issued a G.O.Ms.No.181 (School Education - C2), dated 15.11.2011 indicating that the candidate should pass TET within five years as per the Central Act. However, one post of B.T. Assistant (Science) in



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sixth respondent School fell vacant on 01.07.2012, due to retirement of the then incumbent Tmt.Baby Alphonsa on 30.06.2012. In the said vacancy, the sixth respondent School appointed the petitioner as B.T. Assistant (Science) with effect from 11.07.2012. The sixth respondent School submitted a proposal on 01.08.2012 to the DEEO for approval of the petitioner's appointment and to disburse grant-in-aid towards his salary. However, the AEEO without forwarding the same, returned the proposal vide proceedings, dated 29.11.2012 pointing out certain deficiencies and resubmit the proposal along with the detail for completion of Teachers Eligibility Test. Therefore, the School resubmitted the proposal to DEEO through AEEO on 25.09.2015 requesting to approve the petitioner's appointment as B.T. Assistant (Science) with effect from 11.07.2012 with the condition to pass TET within five years, in the light of the first respondent letter, dated 21.04.2015 on par with similarly placed person, while resubmitting the proposal on 25.09.2015. Hence, the petitioner filed a writ petition before this Court in W.P.(MD) No.23361 of 2015 challenging the order of the AEEO, dated 29.11.2012. While admitting the case, this Court granted an interim order on 22.12.2015, to grant temporary approval



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and pay salary from the date of appointment, till the disposal of the writ petition. Aggrieved by the same, the State preferred an appeal in W.A.(MD) No.663 of 2016 and the appeal was disposed of by order, dated 20.04.2016, directed to give salary in the course of employment and not taken any steps to remove her from service till the disposal of the writ petition. Thereafter, this Court dispose of the main writ petition on 14.07.2016 and directed to give salary in the course of employment and not to take any steps to remove her from service till final outcome of the case pending before the Supreme Court within a period of four weeks. However, till date the petitioner's services were not approved. Though several orders of Division Bench of this Court held that the Teachers appointed in Minority Institutions need not pass the Teachers Eligibility Test as prescribed under the Right of Children to Free and Compulsory Education Act, however, contrary to the decision rendered by this Court till date, the petitioner's appointment was not approved. Hence the petitioner again made representations on 20.04.2019 and 11.10.2019. and the same was not considered. Hence, the present writ petition is filed.



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3. The learned counsel for the petitioner submitted that this Court may issue a direction to the respondents to consider the petitioner's representation, dated 11.10.2019 and pass appropriate orders within the time limit.

4. Considering the limited request made by the learned counsel for the petitioner, this Court directs the respondents to consider the petitioner's representation, dated 11.10.2019 and pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

5. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

11.01.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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M.DHANDAPANI, J.

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