



**W.P.(MD)No.6028 of 2018**

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED:10.02.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**W.P.(MD)No.6028 of 2018**

A.John Michael Stella

... Petitioner/Petitioner

**Vs.**

1.The District Elementary  
Education Officer,  
Madurai District,  
Madurai.

2.The Assistant Elementary  
Education Officer,  
Madurai West,  
Anaiyur,  
Madurai – 625 107.

3.The Correspondent,  
R.C.Middle School,  
K.Pudur,  
Madurai District.

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the Na.Ka.No.1775/A3/2017 dated 17.10.2017 and quash the proceedings as far as date of appointment is concerned instead of 16.08.2016 and directing the 1<sup>st</sup> and 2<sup>nd</sup> respondents to approve the



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petitioner's appointment from 01.07.2011 and to disburse the salary from the original date of appointment from 01.07.2011 to 16.08.2016 in the post of B.T.Assistant(English) in the third respondent school.

For Petitioner : Ms.S.Jainab Beevi  
For R-1 & R-2 : Mr.J.Ashok,  
Additional Government Pleader  
For R-3 : No Appearance

### **ORDER**

This writ petition has been filed to quash the proceedings in Na.Ka.No.1775/A3/2017, dated 17.10.2017, as far as date of appointment is concerned instead of 16.08.2016 and directing the 1<sup>st</sup> and 2<sup>nd</sup> respondents to approve the petitioner's appointment from 01.07.2011 and to disburse the salary from the original date of appointment from 01.07.2011 to 16.08.2016 in the post of B.T.Assistant(English) in the third respondent school.

2. The case of the petitioner is that the petitioner completed B.Ed., course in the year 1992 and completed B.A(English) course in the year 2008. The petitioner was appointed as B.T.English Teacher in the third respondent school w.e.f. 01.07.2011. However, the second respondent



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has returned the proposal sent for approval of the petitioner's appointment on the ground that the petitioner does not possess TET qualification.

Thereafter, the third respondent sent a communication to the first respondent stating that as per the directions of this Court, the Teachers who were appointed on or after 23.08.2010 could be allowed to continue in service on the condition that they passed the Teachers Eligibility Test on or before 31.03.2015. In the meanwhile, the petitioner appeared for the Teachers Eligibility Test conducted by Teachers Recruitment Board and passed the Teachers Eligibility Test. Therefore, she is entitled to the emolument as indicated in the appointment order issued by the third respondent for the services rendered by her. However, the petitioner has not been paid with any monetary benefit including salary. Hence, the petitioner filed a writ petition in W.P(MD)No.5314 of 2015 seeking for a direction to grant all the monetary benefits to the petitioner from the date of appointment. The said writ petition was disposed of subject to the directions issued in W.A(MD)No.220 of 2016. Subsequently, the petitioner approached the respondents 1 and 2, seeking for compliance of the said order. Since the same has not been complied with, the petitioner filed Cont.P(MD)No.1593 of 2016. In the meanwhile, the respondents filed Rev.App(MD)No.7 of 2017. The said application was allowed on



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16.08.2016 and the order passed in W.P(MD)No.5314 of 2015 was recalled and the said writ petition was dismissed with a direction to the review petitioners to pass a reasoned order. Pursuant to which, the impugned order was passed approving the appointment of the petitioner from 16.08.2016 and not from the date of original appointment on 01.07.2011. Hence, challenging the same, the petitioner has filed this writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that though the petitioner was appointed in the year 01.07.2011, her appointment was not approved. Subsequently, after possessing the TET, her appointment was approved on 17.10.2017. However, the petitioner's appointment was approved only from 16.08.2016 instead of her original appointment on 01.07.2011, which is not sustainable one and hence, prays for allowing of this writ petition.

4. Per contra, the learned Additional Government Pleader appearing for the respondents 1 and 2, would submit that consequent to the orders of this Court in the review application filed by the respondents, it was ordered, rejecting the appointment of the petitioner as it cannot be



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approved. However, as per the recommendation of the Assistant Elementary Educational Officer, Madurai dated 10.10.2017, the appointment of one Tmt.Rani, the holder of dual degree was approved on temporary basis subject to the condition that the appointment is subject to the final verdict in the cast of TET, which is pending in the Apex Court. The appointment of the petitioner was also approved on the analogy of similar treatment from the date of orders of this Court, subject to the condition that the approval was subject to the final verdict in the matter of TET before the Hon'ble Apex Court. The appointment of the petitioner will be finalized only after receipt of clarification from Government. Till such time, the petitioner has to wait.

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

6. Admittedly, the third respondent appointed the petitioner as B.T.Assistant(English) on 01.07.2011. However, the said appointment was not approved on the ground that the petitioner did not possess the TET qualification. Subsequently, the petitioner's appointment was approved by the impugned order with effect from 16.08.2016. The grievance of the



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petitioner is that though the petitioner was appointed on 01.07.2011, salary was not paid till 16.08.2016. Admittedly, the petitioner did not possessed the TET qualification and acquired the same only in the year 2015. Thereafter, the petitioner's appointment was approved. Further, with regard to the persons appointed in the minority institution, the issue whether it is necessary to possess TET qualification is pending before the Hon'ble Supreme Court.

7. In view of the pendency of the issue pending before the Hon'ble Supreme Court, this writ petition is dismissed granting liberty to the petitioner to work out his remedy after disposal of the S.L.P., before the Hon'ble Apex Court. No Costs.

**10.02.2023**

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Index: Yes/No

NCC: Yes/No



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**M.DHANDAPANI, J.**

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