



W.A.(MD)No.1053 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.A.(MD)No.1053 of 2019
and C.M.P. (MD) No.9648 of 2019

Anitha Malathy

... Appellant/Writ Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary,
School Education Department,
Fort St. George,
Chennai – 9.

2.The Director of School Education,
DPI Campus,
Chennai – 6.

3.The District Educational Officer,
Melur,
Madurai District.

4.The Correspondent,
Nehru Vidyasalai Hr. Sec. School,
Vedavalli Nagar,
P & T. Nagar Extension,
Kosakulam, Madurai – 17.

... Respondents/Respondents



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PRAYER: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 15.07.2019 made in W.P.(MD)No.11217 of 2015 on the file of this Court.

For Appellant : Ms.A.Amala

For Respondents 1 to 3 : Mr.A.Kannan
Additional Government Pleader

For 4th Respondent : No appearance

JUDGMENT

(Judgment of the Court was delivered by ***R.SURESH KUMAR, J.***)

This intra-Court appeal is directed against the order passed by the learned Judge dated 15.07.2019, made in W.P.(MD) No.11217 of 2015.

2. The appellant was the petitioner before the Writ Court, he was a B.T. Assistant (Science) appointed in the 4th respondent school in a sanctioned vacancy on 10.11.2014.

3. The appellant also qualified in TET with 55% marks. When a proposal was sent by the School to approve the appointment of the teacher, the same was rejected by the 3rd respondent vide his proceedings dated



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13.05.2015, challenging the same, the Writ Petition was filed before the Writ Court.

4. The point that was raised on behalf of the appellant / writ petitioner before this Court was that, no doubt the general condition was that everyone should have qualified in the TET with 60% marks, however, 5% relaxation was given to those reserved categories like, the candidates belongs to Scheduled Caste, Scheduled Tribes, Backward Classes, Backward Classes (Muslim), Most Backward Classes, Denotified Communities and persons with disability.

5. In this context the Government issued G.O.Ms.No.25 School Education Department dated 06.02.2014, where the Government has stated the following:-

“3. In continuation of the announcement made by the Hon'ble Chief Minister, the Government orders as follows:

a) relaxing 5% marks from the present pass mark of 60% and fix the pass mark at 55% for candidates belonging to Scheduled Caste, Scheduled Tribes, Backward Classes, Backward Classes (Muslim), Most Backward Classes, Denotified Communities and Persons with Disability (PWD) as given below. The Candidates are required to obtain the



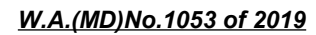
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following minimum marks in Paper I for Secondary Grade Teachers and Paper II for Graduate Assistants:-

Category	Maximum Marks	Minimum Marks (%) to be obtained in TNTET	
		Paper I	Paper II
General	150	60% or 90 marks	60% or 90 marks
SC,ST, BC, BC(M), MBC, DNC and Persons with Disability (PWD)	150	55% or 82.5 marks rounded off to 82 marks	55% or 82.5 marks rounder off to 82 marks

b) relaxing 5% marks from the 60% marks prescribed for clearing of the Tamil Nadu Teacher Eligibility Test, 2013 held on 17.8.2013 and 18.8.2013 for Scheduled Caste, Scheduled Tribes, Backward Classes, Backward Classes (Muslims), Most Backward Classes, De-notified Communities and Persons with Disability (PWD) and fixed at 55% or 82 marks.

c) For all future Teacher Eligibility Tests, to fix the minimum marks for candidates belonging to General Category at 90 marks (60% of 150) and for candidates belonging to Scheduled Caste, Scheduled Tribes, Backward Classes, Backward Classes (Muslims), Most Backward Classes, De-notified Communities, and Persons with Disability (PWD) at 82 marks (55% of 150)."



6. Insofar as the appellant teacher is concerned, since she secured

7. Be that as it may, before the Writ Court, mainly the issue that

8. That was the main contention came to be considered by the



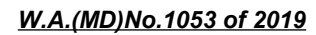
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9. Challenging the said order passed by the learned Judge of the Writ Court, the present appeal has been filed.

10. Assailing the order of the learned Judge of the Writ Court, the learned counsel for the appellant would contend that, first of all, the appointment of the appellant has been protected as he was appointed in the 4th respondent school, which is a minority school, therefore, the benefits based on the law declared by the Hon'ble Supreme Court in ***Pramati Educational and Cultural Trust's*** case (cited supra) has to be extended to the appellant / writ petitioner.

11. That apart, in view of the relaxation that has been given under G.O.Ms.No.25, referred to above, as the appellant / writ petitioner secured 55% marks in TET, which is the eligible marks, therefore, on that ground also the appointment made at the 4th respondent school of the appellant / writ petitioner should have been approved.

12. On the other hand, Mr.A.Kannan, learned Additional Government Pleader appearing for the respondents 1 to 3 would contend





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qualification itself is not justifiable, therefore, on that ground no rejection order could be made in approving the appointment of the appellant / writ petitioner.

15. That apart, as has been brought to our notice by the learned counsel appearing for the appellant that, the Government even though under G.O.Ms.181 has already held that, what are all the qualifications to be fulfilled for a teacher to be appointed, which includes the minimum marks to be obtained or secured in the TET examination, which has been fixed at 60% some relaxation had been given by the State Government for the reserved categories as stated supra. The relevant portion of the G.O.Ms.No. 25 (cited supra) has already been quoted hereinabove, where 5% relaxation has been given to all communal categories including the Backward classes community category and since the appellant belongs to such backward classes community category, she is also entitled to get the 5% relaxation.

16. If such a 5% relaxation is given, the marks secured by the appellant i.e., 82 out of 150 comes to 55%, then automatically the appellant will reach the required mark zone of 55%. Therefore, on that ground also,



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otherwise independently the appellant would be entitled to get appointment.

Therefore, such an appointment, since has been made on 10.11.2014 ought to have been approved by the respondent, hence, the order, which was impugned before the Writ Court ought not to have been passed by the respondent department.

17. In view of the aforestated, we are inclined to pass the following orders:-

(i) that the impugned order of the learned Judge is set aside, as a result, the Writ Petition in W.P.(MD) No.11217 of 2015 is allowed, as a sequel, there shall be a direction to the respondent department to approve the appointment of the appellant with effect from 10.11.2014 as B.T. Assistant (Science) in the 4th respondent school.

(ii) Since it has been brought to our notice that, pursuant to the impugned order, during the pendency of the appeal, the appointment of the appellant has been approved on temporary basis with effect from 17.02.2016 and since then only she is getting the salary, the aforestated directions should be complied with by the respondents for giving approval with effect from 10.11.2014, correspondingly the service benefits, including



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the financial benefits shall be calculated and be extended to the appellant.

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(iii) the needful as indicated above shall be undertaken by the respondents within a period of 8 weeks from the date of receipt of a copy of this order.

18. With these directions and observations, this Writ Appeal is allowed, accordingly. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

(R.S.K., J.) & (K.K.R.K, J.)
22.06.2023

NCC : Yes
Index : Yes
Internet : Yes
SJ

To

1.The Secretary,
School Education Department,
State of Tamil Nadu,
Fort St. George,
Chennai – 9.

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2.The Director of School Education,
DPI Campus,
Chennai – 6.

3.The District Educational Officer,
Melur,
Madurai District.



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