



W.P.No.3213 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.3213 of 2024 and
W.M.P.Nos.3471 & 3473 of 2024

1. V.Mohanasundaram
2. C.C.Haribabu
3. A.Shanthi Malar
4. C.Jayaprabavathi

...Petitioners

-Vs-

1. Union of India,
Rep. by its Secretary to Government,
Ministry of Human Resources Department,
Department of School Education and Literacy,
Room No.312 C, Wing,
Shastri Bhawan, Rajendra Prasad Road,
New Delhi-110 001.
2. The State of TamilNadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Fort St., George, Secretariat,
Chennai-600 009.



W.P.No.3213 of 2024

3. The Secretary,
Teachers Recruitment Board,
Puratchi Thalaivar Dr.MGR Centenary Building,
3rd and 4th Floor, College Road,
Nungambakkam, Chennai-600 006.
4. The Project Director,
Inclusive Education for Disabled at Secondary Stage (IEDSS),
Directorate of Education,
Government of NCT of Delhi,
Amrita Shergil School Building,
Behind Lady Shri Ram College,
Lajpat Nagar-IV,
New Delhi-110 024.
5. The Member Secretary,
The Rehabilitation of Council of India,
B-22, Qutab Institutional Area,
New Delhi-110 016.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned Notification issued by the 3rd respondent the Teacher Recruitment Board in Addendum Notification No.03A/2023 dated 15.11.2023 and to quash the same in so far as the qualification for Graduate Teacher (IEDSS) in Clause 2 (IV) with reference to fixation of 50% marks in Graduation is concerned and consequently directing the respondents to declare the petitioners eligible to participate in the selection for the post of Graduate Teacher (IEDSS) by accepting the application submitted by the petitioners for the post of regular Graduate Teacher for selection and appointment to the post of Graduate Teacher (IEDSS).



W.P.No.3213 of 2024

For petitioner	: Mr.G.Sankaran Senior Counsel for Mr.S.Nedunchezhiyan
For respondent 1	: Mr.A.R.Sakthivel Special Central Government Standing Counsel
For respondent 2	: Mrs.S.Mytheraye Chandru Special Government Pleader
For respondent 3	: Mr.C.Kathiravan

ORDER

This writ petition has been filed challenging the notification issued by the 3rd respondent in addendum notification No.03A/2023 dated 15.11.2023 in so far as the qualification for Graduate Teacher (IEDSS) in Clause 2 (IV) with reference to fixation of 50% of marks in Graduation.

2. The petitioners are qualified with degree with atleast 50% of marks. They also qualified with B.Ed., and had passed Teachers Eligibility Test Paper-II conducted by the Teachers Recruitment Board. All the petitioners are qualified for selection to the post of BT Assistant as well as



W.P.No.3213 of 2024

Special Education Teacher for B.T.Assistant (IEDSS). As per notification dated 25.10.2023 with addendum notification dated 15.11.2023 issued by the Teachers Recruitment Board, the applications for the post of regular B.T.Assistant are not accepted in view of the qualification in the addendum notification prescribed as graduation with atleast 50% of marks.

3. Mr.G.Sankaran, the learned senior counsel appearing on behalf of the petitioners submitted that the prescription of qualification in the post of B.T.Assistant (IEDSS)/Special Education Teacher with fixation of 50% marks in graduation is in violation of qualification of Special Education Teacher prescribed by Government of India for the Post of Special Teacher under General Standard Scheme of Inclusive Education for Disabled at Secondary Stage (IEDSS). Accordingly, the qualification is Graduate with B.Ed., Special Education or B.Ed., General with two years Diploma in Special Education for class 9 and 10. There is no fixation of minimum marks as 50% in graduation as per the orders of the Government of Tamilnadu in G.O.Ms.No.28, School Education Department dated 30.01.2015 for creation of 202 posts of Special Teacher in B.T Assistant cadre to be filled up by the Teachers Recruitment Board in IEDSS out of



W.P.No.3213 of 2024

202 vacancy.

WEB COPY

4. He further submitted that Out of 202 vacancies, 58 candidates alone have been selected and appointed to the post of B.T.Assistant (IEDSS) in the year 2017. In order to fill up remaining 144 vacancies, as sanctioned in G.O.Ms.No.28 dated 30.01.2015 as qualification requires minimum 50% in graduation. It is contrary to the earlier notification as well as IEDSS/CSS regulations. As per the said G.O. it is directed to frame adhoc rules for the post of B.T.Assistant (IEDSS). However, so far no rules have been framed and as such the notification prescribing minimum 50% of marks in graduation is eligibility cannot be permissible and it is not supported by any service rules. He further submitted that as per the notification issued under the RTE Act 2009, it is mandatory to provide relaxation up to 5% in the qualifying marks from the candidates belonging to reserved categories. The Teachers Recruitment Board prescribed eligibility to write Teachers Eligibility Test and that the candidates should pass degree from a recognized university under 10+2+3 pattern. Accordingly, the petitioners were allowed to write Teachers Eligibility Test and they were qualified to the post of B.T.Assistant. Therefore, the impugned fixation of minimum



W.P.No.3213 of 2024

marks is against the statutory provisions.

WEB COPY

5. On perusal of the Government Order in G.O.Ms.No.28, School Education Department dated 30.01.2015 for creation of 202 posts of Special in Teacher in B.T.Assistant cadre to be filled up by Teachers Recruitment Board under IEDSS, out of 202 vacancies, only 58 candidates were already selected and appointed to the post of B.T.Assistant (IEDSS). The remaining vacancies were not filled up for want of qualified hands. Therefore, the 3rd respondent issued notification dated 25.10.2023 calling for the applications for the direct recruitment for the post of Graduate Teachers/B.T.Assistants read with addendum notification dated 15.11.2023. As per the said addendum notification, the qualification prescribed as graduation with at least 50% of marks. The qualification for Graduate Teachers (IEDSS-a&b) as follows:

"Candidates should possess Graduation with atleast 50% marks and B.Ed., (Special Education) from a recognized university. The qualification prescribed for the post should have been obtained by passing by required qualification in the order of studies 10th+HSC or its equivalent+UG degree+B.Ed., degree. The B.Ed., (Special Education) Degree should be obtained with specialization in VI (Visual Impairment)/HI (Hearing Impairment)/MR (Mental Retardation) and qualified in TETET Paper-II."



W.P.No.3213 of 2024

WEB COPY

6. Therefore the notified condition as per the addendum notification stipulated that the candidates should possess graduation at least 50% of marks. Though the Government passed order in G.O.Ms.No.28 dated 30.01.2015 directing to frame adhoc rules for the post of Special Teacher for B.T. Assistant (IEDSS), so far no rules for the said post have been framed till date. When there is no service rules prescribing any minimum qualification for the post of Special Teacher/B.T.Assistant (IEDSS), the 3rd respondent cannot be curtailed to fix minimum qualification for the above post without mentioning any minimum marks. Therefore, it cannot be said as arbitrary, illegal and against law. The qualification prescribed in the notification is not contrary to any law or regulations. In fact as per the first notification in the year 2017, all the vacancies could not be filled up for any one of qualified hands. Therefore, the 3rd respondent issued notification and prescribed qualification for Graduate Teacher/B.T.Assistant (IEDSS) as minimum 50% marks in graduation. That apart, the 3rd respondent issued notification for recruitment to the post of Special Education Teacher for Inclusive Education



W.P.No.3213 of 2024

for Disabled at Secondary Stage (IEDSS). Therefore, the 3rd respondent fixed minimum marks as 50% in graduation as eligibility to apply for the said post. However, all the petitioners have secured less than 50% in their respective graduation.

7. However, as per original notification dated 25.10.2023, the applications are invited for the direct recruitment for the post of Graduate Teachers/Block Resource Teacher Educators (BRTE) in School Education and other departments included in the Special Rules for the Tamilnadu School Educational Subordinate Service for the year 2023-2024 from the eligible candidates of Tamilnadu only through online mode up to 05.00pm on 30.11.2023. In the addendum notification dated 15.11.2023, invited applications for the post of Graduate Teacher(IEDSS) for the total vacancies of 144 and prescribed qualification is that the candidates should possess graduation with atleast 50% of marks and B.Ed.,Special Education from recognized university. Insofar as the last date for submission of application was not changed and fixed as 30.11.2023. After a period of two months, the petitioners now challenged the addendum notification. The last date of filing application was already expired.



W.P.No.3213 of 2024

WEB COPY

8. Therefore, this Court cannot find any infirmity or illegality in the addendum notification issued by the 3rd respondent dated 15.11.2023. As such, this writ petition is devoid of merits and liable to be dismissed. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

14.02.2024
(1/2)

Index : Yes/No
Internet: Yes/No
gvn



W.P.No.3213 of 2024

WEB COPY To

1. Union of India,
Rep. by its Secretary to Government,
Ministry of Human Resources Department,
Department of School Education and Literacy,
Room No.312 C, Wing,
Shastri Bhawan, Rajendra Prasad Road,
New Delhi-110 001.
2. The State of TamilNadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Fort St., George, Secretariat,
Chennai-600 009.
3. The Secretary,
Teachers Recruitment Board,
Puratchi Thalaivar Dr.MGR Centenary Building,
3rd and 4th Floor, College Road,
Nungambakkam, Chennai-600 006.
4. The Project Director,
Inclusive Education for Disabled at Secondary Stage (IEDSS),
Directorate of Education,
Government of NCT of Delhi,
Amrita Shergil School Building,
Behind Lady Shri Ram College,
Lajpat Nagar-IV,
New Delhi-110 024.
5. The Member Secretary,
The Rehabilitation of Council of India,
B-22, Qutab Institutional Area,
New Delhi-110 016.



WEB COPY



W.P.No.3213 of 2024

G.K.ILANTHIRAIYAN,J.
gvn

W.P.No.3213 of 2024

14.02.2024
(1/2)