



W.P.No.34811 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2024

CORAM:

THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

W.P.No.34811 of 2013

K.Chinnasamy ... Petitioner

Vs.

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

2. The Director
Department of School Education,
DPI Compound,
Chennai.

3. The Chairman,
TamilNadu Teachers Recruitment Board,
E.V.K.Sampath Maligai,
DPI Compound,
Chennai.

4. The District Employment Officer,
Coimbatore District.
Coimbatore.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents herein to appoint the petitioner as Secondary grade teacher in pursuant to the call letter issued by the 3rd respondent in his proceedings in Memo



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in 5015/Aa4/2008 dated 14.05.2009 without reference to the Teacher Eligibility Test (TET) and in conformity with the decision rendered by the Division Bench of this Court vide its Order dated 09.07.2013 made in Rev.Application No.139 of 2012 & W.A.No.2121 of 2012 within the period that may be stipulated by this Court.

For Petitioner : Mr.K.Thilageswaran

For Respondents : Mr.T.M.Rajangam
Govt.Advocate [R1, R2 & R4]
Mr.C.Kathiravan [R3]

ORDER

The petitioner has filed this writ petition to direct the respondents to appoint the petitioner as secondary grade teacher pursuant to the call letter issued by the 3rd respondent in his proceedings in Memo in 5015/Aa4/2008 dated 14.05.2009 without reference to the teacher Eligibility Test (TET) and in conformity with the decision rendered by the Division Bench of this Court vide its Order dated 09.07.2013 made in Rev.Application No.139 of 2012 & W.A.No.2121 of 2012 within the period that may be stipulated by this Court.

2. The petitioner has completed his diploma course in teacher education in the year 2006 and enrolled his name in the 4th respondent/Employment Exchange on 27.02.2006. A memo dated



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5015/Aa4/2008 dated 14.05.2009 issued by the 3rd respondent, he was called for certificate verification to be held on 02.06.2009 and he attended the same.

3. The petitioner further submits that in view of the notification dated 23.08.2010, issued by the National Council for Teacher Education (NCTE) in which, passing of Teacher Eligibility Test (TET) is compulsory for the appointment of secondary grade teacher and graduate Assistant. The denial of his appointment based on the said notification is not sustainable in law.

4. Pursuant to the National Council for Teacher Education (NCTE) guidelines, the 1st respondent issued G.O.Ms.No.181 School Education(C2) Department, dated 15.11.2011 prescribing Teacher Education Test, [herein after refer to as TET], as the qualification for appointment to the post of secondary grade teacher. The operative portion of the said Government Order is culled out and given hereunder:

i) In respect of Secondary Grade Teacher, the Statewide seniority in Employment Exchange Registration will continue to be followed till the disposal of the SLP filed before the Supreme Court of India.

ii) In respect of Graduate Assistant (B.T. Teachers recruited by



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TRB for the classes VI to X) in all middle schools, High / Higher Secondary Schools selection through written examinations ("Teacher Eligibility Test") in accordance with the guidelines framed by National Council for Teacher Education and Certificate Verification, will be followed.

iii) The Teachers Recruitment Board is designate as a Nodal Agency for conducting the Teacher Eligibility Test and recruitment of teachers.

5. The petitioner further submits that he was called for certificate verification much earlier to the NCTE notification dated 23.08.2010 and he need not to undergo TET. As he was not considered for appointment, he was informed that he was not eligible unless he pass TET. Hence, this writ petition.

6. Heard Mr.K.Thilageswaran, representing counsel for the petitioner. Mr.T.M.Rajangam, learned Government Advocate appearing for the respondents 1, 2 and 4. Mr.C.Kathiravan, learned standing counsel appearing for the 3rd respondent/TRB.



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7. The learned standing counsel appearing for the 3rd respondent/TRB, would refer to the decision of the Hon'ble Division Bench of this Court in W.P.Nos.4827 and 18793 of 2012. The petitioners in the said writ petitions had filed the writ petitions to forbear the respondents from applying the G.O.Ms.No.181, School Education(C2) Dept., dated 15.11.2011 and insisting on passing in TET as the minimum qualification for appointment to the post of Graduate Assistants in classes VI to X in the schools coming under the Directorate of School Education and Elementary Education to the petitioners who have completed the certificate verification process for the said posts based on the employment exchange seniority and for consequential direction to the respondents to select the petitioners to the posts of the Graduate Assistants.

8. The writ petition was dismissed by order dated 01.03.2012. Against the order of dismissal, Writ Appeal was preferred by the petitioner in W.A.No.1201 of 2012. By Judgment dated 13.07.2012, the Hon'ble Division Bench of this Court dismissed the appeal against which, review application No.139 of 2012 was preferred and it was disposed of by an order dated 09.07.2013, by directing the respondents to



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accommodate the review petitioners / petitioners in future vacancies without insisting them to appear for TET. Against the said order passed by the Division Bench in review application, the Government of Tamil Nadu preferred appeals before the Hon'ble Supreme Court of India, in Civil Appeal Nos.9204-05 / 2014 and these appeals were allowed by an order dated 23.09.2014, and in the result, the orders passed by this Court in Writ Petitions, Writ Appeals and in Review Petitions were set aside and the above said two writ petitions were remitted to this Court with the stipulation to adjudicate the matter in the backdrop of issues which were formulated by the Hon'ble Supreme Court so that the entire controversy is given quietus at the High Court level. For better understanding, the questions formulated by the Hon'ble Supreme Court for adjudication is listed hereunder:

"(i) whether the advertisement mentioned specific number of posts;

(ii) whether the posts mentioned have already been filled up;

(iii) whether the procedure of merit has been appositely followed;

(iv) whether the respondents despite being more meritorious have been left out and less meritorious candidates have been appointed; and

(v) whether assuming the advertisement did



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not mention the number of posts, the respondents still could claim a right in perpetuity to have the appointment."

9. The operative portion of the order is as follows:

"(i) The petitioners/appellants concede that there was no advertisement and the posts were notified by various Government orders, and the question is answered accordingly;

(ii) The petitioners/appellants do not dispute that the posts have been filled up and there is no challenge to the select list;

(iii) The petitioners/appellants concede that the selection was based on State wide seniority in the employment exchange coupled with communal rotation and not based on interse merit.

(iv) The selection being only based on employment seniority and communal rotation, inter se merit was not the criteria for selection.

(v) In the light of the discussion in the preceding paragraphs, it is held that the petitioners/appellants have no vested right much less a right in perpetuity to have the appointment."

10. It is relevant to note that if the request of the petitioner is



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accepted then thousands of candidates can enter without minimum qualification of Teacher Eligibility Test and if a positive order is made, it would run contra to the statutory provisions and the constitutional mandates as held by the Hon'ble Supreme Court in the case of **C.Rekhi Ray v. High Court of Delhi** reported in (2010) 2 SCC 637.

11. With these observations, based on the law laid down by the Hon'ble Supreme Court, the petitioner has failed to make out the case.

12. In the result, this writ petition stands dismissed. There is no order as to costs.

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Index : Yes / No
Neutral Citation Case : Yes / No
Speaking Order / Non-Speaking Order
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To

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R.KALAIMATHI, J.,

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