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W.P.Nos.14946 & 14947 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2024

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THE HON'BLE **MR.JUSTICE BATTU DEVANAND**

W.P.Nos.14946 & 14947 of 2018

and

WMP.Nos.17682, 17683, 17685 & 17686 of 2018

K.Subbarayan ...Petitioner in W.P.No.14946 of 2018

M.Selvam ...Petitioner in W.P.No.14947 of 2018

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary
School Education Department,
Fort St. George, Chennai – 600 009.

2. The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.

3. The Chief Educational Officer,
Thiruvannamalai. ...Respondents in both W.P's.

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent herein in relation to the impugned order passed in Na.Ka.No.12128/C2/E1/2016 dated 08.03.2018, quash the same and consequently direct the respondents to appoint the petitioners in the post of



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B.T Assistant (Tamil) within the 2% set apart for the non-teaching staff of the education department vide G.O.Ms.No.175 (School Education Department) dated 19.07.2007 by including the name of the petitioners in the panel for the year 2015-16, without insisting upon TET qualification within the time frame to be fixed by this Hon'ble Court.

In both W.P's.:

For Petitioner : Ms.Dakshayani Reddy, SC

For Respondents : Mr.M.Alagu Goutham, GA, for R1-R3

COMMON ORDER

Since the issue involved in both the Writ petitions are similar in nature, they are disposed of by way of this common order.

2. The petitioners have come up with these Writ petitions seeking quashment of the order of the 2nd respondent passed in Na.Ka.No.12128/C2/E1/2016 dated 08.03.2018 and for a consequential direction to the respondents to appoint the petitioners in the post of B.T Assistant (Tamil) within the 2% set apart for the non-teaching staff of the education department vide G.O.Ms.No.175 (School Education Department) dated 19.07.2007 by including the name of the petitioners in the panel for the year

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2015-16, without insisting upon TET qualification.

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3. When the matters were taken up for hearing, the learned Government Advocate appearing for the respondents submitted that, the issue arises in these Writ petitions are no longer *res integra* as similar issue was dealt with by the Division Bench of this Court in ***W.A.Nos.313 of 2022 and etc., batch of cases*** dated ***02.06.2023***. Therefore, these petitions deserve to be dismissed by following the said decision.

4. The Division Bench of this Court in ***W.A.Nos.313 of 2022 and etc., batch of cases*** dated ***02.06.2023***, in similar circumstances, has passed orders and the relevant portion of the same is quoted hereunder :-

" 74. For the sake of clarity and ease of reference, the upshot of the above discussion is as under:

(a) Any teacher appointed as Secondary Grade Teacher or Graduate Teacher/BT Assistant prior to 29.07.2011 shall continue in service and also receive increments and incentives, even if they do not possess/acquire a pass in TET. At the same time, for future promotional prospects like promotion from secondary grade teacher to B.T. Assistant as well as for promotion to Headmasters, etc.,



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irrespective of their dates of original appointment, they must necessarily possess TET, failing which they will not be eligible for promotion.

(b) Any appointment made to the post of Secondary Grade Teacher after 29.07.2011 must necessarily possess TET.

(c) Any appointment made to Graduate Teacher/BT Assistant, after 29.07.2011, whether by direct recruitment or promotion from the post of Secondary Grade Teacher, or transfer, must necessarily possess TET. ***The principles laid down in this judgment will not have application to minority schools, both aided and unaided as explained in paragraph no.71.1.**

(d) The Special Rules for the Tamil Nadu School Educational Subordinate Service issued in GO (Ms.) No.13 School Education (S.E3(1)) Department dated 30.01.2020 insofar as it prescribes “a pass in Teacher Eligibility Test (TET)” only for direct recruitment for the post of BT Assistant and not for promotion thereto in Annexure-I (referred to in Rule 6) is struck down, thereby meaning that TET is mandatory/essential eligibility criterion for appointment to the post of BT Assistant even by promotion from Secondary Grade Teachers.

(e) The language employed in G.O. (Ms) No. 181 dated 15.11.2011 is to be read and understood to the effect that for continuance in service without promotional prospects, TET is not mandatory.

75. The narration of facts which propelled this case would



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indicate that the teachers have not been appointed for the last ten years inspite of being qualified with a pass in TET. On the basis of the above findings and observations made, the State Government is directed to conduct TET periodically and make direct recruitment of teachers and promotion from among TET qualified candidates at the earliest."

5. The issue in the present case, being squarely covered by the aforesaid order of the Division Bench, as rightly pointed out by the learned Government Advocate, these petitions deserve to be dismissed.

6. Accordingly, these Writ Petitions stand dismissed. No costs. Consequently, the connected Miscellaneous petitions are closed.

20.03.2024

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Index : Yes/No
NCC : Yes/No
Speaking order : Yes/No

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BATTU DEVANAND, J.

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