



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.Nos.23378 & 23384 of 2024
and W.M.P.Nos.25538, 25540, 25545 & 25546 of 2024

Manba-ul-ula Higher Secondary School,
rep. by its Correspondent, S.M.Anwaruddin,
No.51, Chinnapalli Street, Koothanallur,
Thiruvarur District, Tamil Nadu 614 101

... Petitioner
in both W.Ps

Vs.

- 1.The Government of Tamil Nadu,
Rep. by its Secretary School Education Department,
Fort St. George, Chennai – 600 009.
- 2.The Joint Director of School Education (Secondary Education),
Directorate of School Education,
DPI Complex, College Road, Chennai – 600 006.
- 3.The Chief Educational Officer,
Thiruvarur, Thiruvarur District – 610 004.
- 4.The District Educational Officer,
Thiruvarur, Thiruvarur District – 610 004.

... Respondents
in both W.Ps



Prayer in W.P.No.23378 of 2024: 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 orders passed by the 4th respondent in his proceedings in Na.Ka.No.1593/A3/2019 dated 20.02.2020 and O.Mu.No.1592 / B3/2019 dated 28.04.2022 and the order passed by the 3rd respondent in Na.Ka.No.005804/A2/2023 dated 11.12.2023 and quash the same and direct respondents 1 to 4 approve the appointment of K.Murganathan as B.T. Assistant Tamil and pay salary and all attendant benefits from 01.06.2018 as he was appointed before the issue of G.O.Ms.No.165, School Education Department dated 17.09.2019.

Prayer in W.P.No.23384 of 2024: 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 orders passed by the 4th respondent in his proceedings in Na.Ka.No.1593/A3/2019 dated 20.02.2020 and O.Mu.No.7131/B3/2019 dated 28.04.2022 and the order passed by the 3rd respondent in Na.Ka.No.005719/A2/2023 dated 11.12.2023 and quash the same and direct respondents 1 to 4 approve the appointment of C.Ismath Nachiya as B.T. Assistant (Maths) and pay salary and all attendant benefits from 11.02.2019 as he was appointed before the issue of G.O.Ms.No.165 school Education Department dated 17.09.2019.



In Both W.Ps

For Petitioner : Mr.P.Ebenezer Pul
For Respondent : Mrs.S.Mythreye Chandru
Special Government Pleader
for R1 to R4

ORDER

The issue involved in both the writ petitions are common and therefore, both the writ petitions are taken up together, heard and disposed of through this common order.

2.The subject matter of challenge in these writ petitions pertains to the rejection of the approval sought for the appointment to the post of B.T. Assistant (Maths) and B.T. Assistant (Tamil).

3.The case of the petitioner in W.P.No.23384 of 2024 is that the competent person was appointed in the post of B.T. Assistant (Maths) w.e.f. 11.02.2019. This appointment was done towards a sanctioned post and there were two sanctioned posts available and one post became vacant and in that vacancy, he was appointed as a B.T. Assistant.



4.Insofar as W.P.No.23378 of 2024 is concerned, the competent person was appointed as a B.T. Assistant (Tamil) w.e.f. 01.06.2018. This appointment was made in a sanctioned post and during the relevant point of time, three posts were sanctioned and one such post became vacant and in that vacancy, he was appointed.

5.The proposal was sent by the petitioner on 11.02.2019 seeking for approval for both the appointments. The same has been rejected and aggrieved by the same, these writ petitions have been filed before this Court.

6.Separate counter affidavits have been filed by the 3rd respondent in both the writ petitions. The 3rd respondent has taken a stand that the candidates does not posses TET qualification. Therefore, the sanction for their appointment was not granted. Accordingly, the respondents have sought for the dismissal of this Court.

7.Heard Mr.P.Ebenezer Pul, learned counsel appearing on behalf of the petitioner and Mrs.S.Mythreye Chandru, learned Special Government Pleader appearing on behalf of respondents 1 to 4.



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8.The proposal was initially rejected by the District Educational Officer on the ground that in the vacancy, only the surplus teachers can be appointed and new appointments cannot be made. Aggrieved by the same, the appeal was filed before the Chief Educational Officer. Initially, the Chief Educational Officer also rejected on the same ground. Subsequently, the Chief Educational Officer who is the 3rd respondent through proceedings dated 11.12.2023 has rejected the approval on the ground that the candidates do not possess TET qualification.

9.In the considered view of this Court, none of the reasons that have been given by the District Educational Officer and the Chief Educational Officer are sustainable. Insofar as minority institutions are concerned, there is no requirement for a TET qualification. The law on this issue was settled by the Division Bench of this Court in W.A.Nos.313 etc., of 2022 dated 02.03.2023.

10.There is no dispute with regard to the fact that the appointment was made in a sanctioned post to fill up a vacancy. The respondents cannot insist for filling up that vacancy with surplus teachers. The law on this issue was settled by the



Division Bench of this Court in *Secretary to Government and Others vs.*

Iruthaya Amali and Another reported in *2021 SCC Online Mad 1285*.

11. In the light of the above discussion, the impugned proceedings issued by the respondents rejecting the approval sought for by the petitioner is hereby quashed. The petitioner is permitted to resubmit the proposal before the 4th respondent who shall forward the same to the 3rd respondent. The 3rd respondent shall pass appropriate orders, within a period of six weeks from the date of receipt of copy of this order granting approval for the appointment, if the teachers are otherwise qualified. It goes without saying that on such approval being granted, all the attendant benefits will have to be extended to the them.

12. In the result, these writ petitions are allowed with the above directions.

No Costs. Consequently, connected miscellaneous petitions are closed.

24.10.2024

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
ssr



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To

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Rep. by its Secretary School Education Department,
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2. The Joint Director of School Education (Secondary Education),
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N. ANAND VENKATESH, J.

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