



WEB COPY



WA No.1741 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

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1.Government of Tamil Nadu
Represented by Special Secretary to Government,
School Education Department,
Secretariat,
Chennai-9.

2.The Director of School Education,
Chennai-6.

3.Tamil Nadu Teachers,
Recruitment Board,
Represented by its Member Secretary,
College Road, Chennai-6.

... Appellants

versus

E.Elavarasi

... Respondent



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PRAYER: Writ Appeal filed against the order in WP No.31240 of 2017 dated 04.01.2018 of the learned Single Judge.

For the Appellants :Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.K.Sathish Kumar
for third appellant
Mr.U.M.Ravichandran
Special Government Pleader
for first and second appellants

For the Respondent :Mr.M.Ravi

JUDGMENT

(Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*)

The Writ Appeal is filed against the order in WP No.31240 of 2017 dated 04.01.2018 of the learned Single Judge

2. Brief facts of the case:

2.1. The respondent herein passed 10th and 12th standard examination and then B.Com. Degree and thereafter, passed B.Ed. (English). Subsequently, she appeared for Tamil Nadu Teachers Eligibility Test (TET) in the year 2012 and she cleared the said test. A certificate to that



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effect has been issued by TET on 06.03.2017, which was valid for seven years from the date of issuance of the said certificate. Thereafter, the respondent passed three years decree course, namely, B.A.English course. According to the respondent, she is fully eligible and qualified to be appointed as Graduate Teacher English. Further, according to the respondent, she is not only qualified in B.Com., but also in B.A.English Subject. Since she has not passed the B.A. English Degree Course before passing TET, she was not selected. Aggrieved by the same, the respondent filed the writ petition in WP No.31240 of 2017. The Writ Court, by order dated 04.01.2018 had disposed of the said writ petition with the following observation:

" 7. In view of all the above, the respondents are directed to appoint the petitioner as Graduate Teacher either in B.Com subject, or in B.A. English, by considering her representation dated 23.10.2017, at the earliest."

2.2. Challenging the said order passed by the Writ Court, the appellant Department has preferred this intra court appeal.



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3. Learned Additional Advocate General appearing for the appellant Board submitted that the respondent herein has appeared for the TET exam in the year 2012 and a certificate to that effect was issued in the year 2017 i.e. 06.03.2017. Subsequently, a notification dated 27.04.2017 was issued by the Teachers Recruitment Board calling for applications for filling up the post of BT Assistant English subject. He further submits that on the date of appearing for the TET examination, she has not passed the BA English subject and therefore, she was not considered by the appellant Board for the recruitment to the said post of BT Assistant English subject.

4. Learned counsel appearing for the respondent submitted that a similar matter came up before a Division Bench of this Court in WA No.1649 of 2021. In the said appeal, by order dated 17.08.2022, the Division Bench of this Court has held as follows:

"4. Having heard learned advocates for the respective parties and having considered the material on record, this Court finds that the petitioner had first passed the TET examination on the basis of her eligibility for that in the year 2015. Separately, she had also passed B.A.(English) which is required qualification. The sequence of



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obtaining these qualifications can not be a guiding factor for the State. We have considered the reasons recorded by learned single Judge, more particularly in para:5 and 6 of the order under challenge. We are in full agreement with the satisfaction recorded by learned single Judge and we do not find any error in the final directions given by learned single Judge. This appeal therefore needs to be dismissed.

5. We note that, on behalf of the appellant authorities, reliance is placed on the decision of the Division Bench of this Court dated 29.04.2021 recorded on WA(Md) No.1102 of 2020, however, on facts, it would not take the case of the appellant any further

6. At this stage it needs to be noted that, the recruitment in question pertains to the year 2015-2016. Though the order of learned Single Judge is dated 04.01.2018, till date the directions are not complied with. A question may crop up that even if the writ petitioner is given appointment now (without prejudice to the right of the State to approach higher forum), she can not be deprived of her earlier service rights. For this reason, by referring to the decision of the Division Bench of this Court dated 16.08.2022 recorded on W.A.No.1016 of 2022, it would also be just and proper to mould relief accordingly. With a view to see that the Government exchequer does not suffer, we do not give any direction in this appeal (of the State) to pay arrears and other benefits to the writ petitioner, however the appointment of the writ petitioner shall be treated along with persons of the same batch and in any case the date on which his immediate junior was appointed. So far



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consequential benefits is concerned, it is left to the writ petitioner to resort to appropriate remedy and we may not be understood to have rejected that claim in this appeal.

5. Learned counsel for the respondent further submits that the aforesaid judgment squarely applies to the facts of the case on hand. In the said appeal, the claim of the employee therein has been considered positively. Hence, seeks for dismissal of the writ appeal.

6. Learned Additional Advocate General fairly agreed that the aforesaid judgment squarely applies to the facts of the present case on hand. He further submits that respondent has not been considered for selection so far. Therefore, the appellant board will consider the respondent/petitioner for selection, if she is otherwise eligible, in the light of the judgment passed by the Division Bench of this Court in Writ appeal in WA No.1649 of 2021 dated 17.08.2022 and appropriate orders will be passed by the Board.

7. Heard the parties and perused the materials available on record.



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8. Considering the facts and circumstances of the case and the submission made by the parties, we are inclined to direct the appellant board to consider the respondent for selection to the post of BT Assistant, English subject, if she being otherwise eligible, as per the recruitment notification issued in the year 2017 and in the light of the order passed by the Division Bench in W.A. No.1659 of 2021 dated 17.08.2022. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this judgment.

9. With the above directions, the writ appeal stands disposed of. There shall be no order as to costs. CMP No.10904 of 2021 is closed.

[D.K.K., J.] [K.B., J.]
24.04.2024

Index : Yes/No
Neutral Citation : Yes/No
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