



W.A.No.612 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 21.11.2023

PRONOUNCED ON : 09.02.2024

CORAM:

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN**

**W.A.No.612 of 2020
and CMP.Nos.697 & 8439 of 2020**

- 1.G.Rajam
- 2.C.Durai
- 3.M.Shanthi
- 4.Logapadmapriya
- 5.S.Vasanthapriya
- 6.P.Gomathi
- 7.K.Vaijeyanthi
- 8.S.Valarmathi
- 9.M.Ananthi
- 10.S.Suthanthira Vanitha
- 11.M.Petchiammal
- 12.D.Jancy Rani
- 13.R.Chitra Lekha
- 14.R.Uma Mageshwari
- 15.N.Nasrin Farsana
- 16.R.Pathampriyal
- 17.M.Krishnaveni
- 18.N.Imthiyas Ahamed
- 19.D.Lakshmi Narasimhan
- 20.G.Vijayalakshmi
- 21.S.Arul Prasad



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- 22.J.Janakiraman
23.G.Kavitha
24.S.Devi
25.Arokyavathana
26.T.Bhuvaneswari
27.A.Mangayarkarasai
28.R.Jeyabharathi
29.M.Vijayalakshmi
30.K.Pavaimalar
31.K.Ashok
32.N.Ramani
33.A.Samiyappan
34.J.Sumathi
35.R.Rajapriya
36.K.Kalpana
37.P.Kantharuby
38.A.S.Pachiyappan
39.R.Sasikala
40.S.Devi
41.N.Kalaiselvi
42.S.Thangamani
43.C.Pushpavalli
44.R.Lalitha
45.M.Lavanya
46.G.Murugan
47.C.Surulivel
48.N.Ayyappan
49.C.Rajini
50.T.Anandaprakash
51.A.Venkatesan
52.R.Mohan
53.B.Elanchezian
54.V.Subha
55.R.Sasikala
56.M.Manimegalai
57.R.Ragavendiran

.... Appellants

vs.



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1. The Principal Secretary to
Government of Tamil Nadu
Higher Education Department
St. George Fort, Secretariat,
Chennai.
2. The Chairman,
Teachers Recruitment Board
Higher Education Department,
St. George Fort, Secretariat,
Chennai.
3. The University Grants Commission
Bahadur Shah Zafar Marg
New Delhi – 110 002.
4. Mohanambal
5. S.Benazir Hazira
6. P.Kanagavalli
7. K.Sudha
8. S.Kavitha
9. M.A.Poornima Priya Dharshini
10. R.Vasugi
11. M.Muruganandham
12. M.Malathi
13. V.Sasikala
14. I.Manimaran
15. S.C.Balaji
16. R.Anitha

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 12.11.2019 passed in WP.No.29004 of 2019.

For Appellants : Mr.R.Venkata Varadhan for
M/s.C.Uma



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For R1 : Mr.K.V.Sajeev Kumar
For R2 : Mr.R.Neelakandan, AAG
Assisted by Mr.K.Sathish Kumar,
Standing Counsel
For R3 : Mrs.V.Sudha, Advocate

JUDGMENT

(Order was delivered by **G.ARUL MURUGAN, J**)

This Writ Appeal has been directed against the order passed by the Writ Court dated 12.11.2019 made in W.P. No.29004 of 2019, dismissing the Writ Petition filed by the appellants to quash the notification No.12 of 2019 dated 28.08.2019, issued by the second respondent in respect of serial No.6(b) (i) and (vi) of the notification and for further direction to direct the 2nd respondent to incorporate “Pass in M.Phil before 11.07.2009” as the eligible qualifications for the post of Assistant Professor.

2. The Teachers Recruitment Board / Second Respondent has issued notification dated 28.08.2019 and 04.10.2019 in Notification No.12 of 2019 inviting applications for direct recruitment for the



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post of Assistant Professors in Tamil Nadu Collegiate Educational

Service for Government Arts and Science Colleges and Colleges of

Education to fill up the 2331 vacancies. The qualification for the

post of Assistant Professors in the notification has been fixed as per

the University Grants Commission notification. Clause 6 (b) (i) and

(vi) of the notification is extracted hereunder for easy reference,

6. Qualifications:

b) Educational Qualifications:

i) For General Candidates: A Pass in Post-Graduate Degree in the relevant subject with a minimum of 55% marks and a pass in the NET/SLET/SET/SLST/CSIR/JRF as per UGC Norms in the relevant subject.

(or)

A Pass in Post-Graduate Degree in the relevant subject with a minimum of 55% marks and Ph.D in the relevant subject awarded as per UGC norms (Certificate of compliance to be obtained from competent authority of the concerned University-to be submitted at the time of Certificate Verification).

A Ph.D Degree that has been awarded in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of M.Phil/Ph.D Degree) Regulations, 2009 or 2016 and their amendments from time to time as the case may be exempted from NET/SLET/SET:

Provided, the candidates registered for the Ph.D. programme prior to July 11, 2009, shall be governed by the provisions of the then existing Ordinances/Bye-



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laws/Regulations of the Institution awarding the degree and such Ph.D. candidates shall be exempted from the requirement of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/Institutions subject to the fulfillment of the following conditions:-

a) The Ph.D. degree of the candidate has been awarded in a regular mode;

b) The Ph.D. thesis has been evaluated by at least two external examiners;

c) An open Ph.D. viva voce of the candidate has been conducted;

d) The Candidate has published two research papers from his/her Ph.D. work, out of which at least one is in a referred journal;

e) The candidate has presented at least two papers based on his/her Ph.D. work in conferences/seminars sponsored/funded/supported by the UGC/ICSSR/CSIR or any similar agency.

The fulfillment of these conditions is to be certified by the Registrar or the Dean (Academic Affairs) of the University concerned.

vi) The candidates who have obtained their M.Phil/Ph.D Degrees on or after 03.04.2009 through Correspondence/ Distance Education/Open University System are ineligible for appointment\ as Lecturers /Assistant Professors in Colleges and Universities and also for awarding of weightage marks for Teaching Experience vide G.O.Ms.No. 91, Higher Education (K2) Department, dated 03.04.2009 and clarification issued in Govt. Lr. No.8609A/F2/2014-1, dated 13.06.2014.



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3. As per the notification issued by the Teachers Recruitment Board, the candidates who passed Ph.D. Degree alone shall be exempted from passing NET/SLET/SET for recruitment and appointment to the post of Assistant Professors. The Appellants before this Court, who are admittedly holding only M.Phil Degree awarded before 11.07.2009, aggrieved by the Educational Qualification prescribed in Clause 6(b) of the notification has challenged the clause and sought for consequent direction to incorporate the “pass in M.Phil degree before 11.07.2009” as eligible educational qualification for the post of Assistant Professors.

4. The learned Single Judge dismissed the writ petition holding that the eligibility criteria fixed in the UGC notification for the post of Assistant Professors only exempt holders of Phd certificate from the requirement of NET/SLET/SET examination and persons with only M.Phil qualification cannot claim exemption from passing NET/SLET/SET examination. Challenging the order of the learned Single Judge rejecting the claim, the appellants are before this Court on appeal.



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Mr.R.Venkata Vardhan, the learned counsel for the Appellants submitted that the petitioners are all qualified with M.Phil degrees obtained before 09.07.2009 from a recognized university, and therefore, they are exempted from the requirement of passing the NET/SLET/SET examination for the recruitment and appointment for the post of Assistant Professors. He further submitted that, according to the University Grants Commission notification dated 04.05.2016, candidates with M.Phil/Ph.D degrees are exempted from the NET/SLET/SET examination to the appointment for the post of Assistant Professors. He further contended that the issue of exempting M.Phil degree holders from NET/SLET/SET for the recruitment to the post of Assistant Professors has already been dealt with in W.A. No.1406 of 2016, and the Hon'ble Division Bench by order dated 03.01.2018, has held that, as per the 2016 amendment of UGC Regulations, candidates registered for M.Phil and Ph.D prior to 11.07.2009 shall be exempted from the requirement of the minimum eligibility condition of NET/SLET for recruitment and appointment to the post of Assistant



Professors.

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6. The learned counsel for the Appellants by placing reliance on the UGC notification dated 04.05.2016 and the Division Bench order dated 03.01.2018 in W.A. No.1406 of 2016, submitted that the impugned notification issued by the second respondent calling for applications to fill up the 2331 vacancies for the post of Assistant Professors, exempts only the Ph.D. Degree holders from the recruitment of NET/SLET/SET, as per the qualification prescribed in clause 6(b) (i) of the notification and therefore the impugned clause in the notification is illegal and unsustainable. He sought for the indulgence of this court to interfere with the order of the learned single judge and quash the notification in respect of clause 6 (b)(i) and direct the second respondent to incorporate the requirement of a pass in M.Phil before 11.07.2009 as an eligible qualification for the post of Assistant Professor, so that the appellants who are M.Phil degree holders will also be exempted from the NET/SLET/SET examination along with Ph.D degree holders



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7. Per contra, Mr.R.Neelakandan, Additional Advocate General submitted that the second respondent, an educational recruitment agency, is bound by the notifications issued by the UGC regarding the qualifications required for the recruitment of Assistant Professors. Earlier, M.Phil degree holders registered before 11.07.2009, along with Ph.D degree, were exempted from the NET/SLET/SET examination. In view of the amendments issued by the UGC in the subsequent notifications, the appellants who are only the M.Phil degree holders are not entitled to seek exemption and only Ph.D degree holders are exempted from NET/SLET/SET examination for recruitment and appointment for the post of Assistant Professors.

8. The learned Additional Advocate General submitted that the orders passed in W.A. No.1406 of 2016 relied on by the appellant's counsel, cannot be taken into account in this appeal as the UGC notification which was in vogue at the time of earlier selection, which was considered in that Writ Appeal underwent a change by the subsequent amendment issued by the UGC. The present impugned



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notification for selection to the post of Assistant Professors has been issued in accordance with the amended notification issued by the 3rd respondent/UGC dated 18.07.2018, which clearly prescribes that Ph.D. Degree holders alone are exempted from NET/SLET/SET examination. Therefore, the Additional Advocate General submits that the learned Single Judge, by considering the UGC notification which was in force on the date of the impugned notification of the Teachers Recruitment Board, has rightly dismissed the writ petition and sought for the dismissal of the Writ Appeal.

9. Mrs.V.Sudha, the learned counsel for the third respondent/UGC, submitted that in fact, the UGC notification dated 04.05.2016 prescribed qualifications for the post of Assistant Professors, which was taken into account and the orders were passed in the earlier writ appeal. The regulation dated 04.05.2016 was amended by the UGC notification dated 11.07.2016, where Ph.D degree candidates alone are exempted by NET/SLET/SET for the recruitment for the post of Assistant Professors. Further, she submitted that a fresh notification dated 18.07.2018 has been issued



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by the third respondent/UGC, which prescribes regulations on the minimum qualifications for appointment of Teachers and other Academic staff in universities and colleges. Clause 3.3 of the notification, which was passed after the orders in W.A, only exempts Ph.D degree candidates from NET/SLET/SET for recruitment and appointment for the post of Assistant Professors, subject to the fulfillment of the other contentions incorporated in the clause.

10. Heard the learned counsel for the appellant and the respondents and perused the documents on record.

11. The University Grants Commission in exercise of the powers conferred by Section 26 (1) (g) & (e) read with Section 14 of the University Grants Commission Act. 1956 (Act 3 of 1956) frames the regulations prescribing the qualifications for the appointment of teachers and other academic staff in universities and colleges. Earlier as per the 1982 regulations, qualification of M.Phil degree or a recognised Master level degree was prescribed for the teaching post. Thereafter UGC framed regulations on 19.09.1991 superseding



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the 1982 regulations and clearing NET was made mandatory for eligibility to become a lecturer. An amendment was issued on 21.06.1995 by which candidates who have submitted Ph.D thesis or passed M.Phil on or before 31.12.1993 were exempted from NET, which date was later extended to 31.12.2002 for the Ph.D thesis holders. Thereafter UGC promulgated the 2009 regulations on 11.07.2009 which prescribed the regulations on minimum qualifications and appointment of teachers and other academic staff in universities and colleges. Clause 3.3.1 of the UGC regulations is extracted hereunder for easy reference:



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“3.3.1, NET/SLET/SET shall remain the minimum eligibility condition for recruitment and appointment of Assistant Professors in Universities / Colleges / Institutions.

Provided however, that candidates, who are or have been awarded a Ph. D. Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D Degree) Regulations, 2009, shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/Institutions”.

12. At this stage without noticing the 2009 regulations, the earlier selections were called for by the 2nd respondent by issuing notification prescribing qualification as per the earlier notification of UGC and that selection was in issue before the Hon'ble Division Bench in the earlier writ appeal.

13. Thereafter, UGC promulgated the 3rd amendment regulations on 04.05.2016 prescribing the qualifications for appointment of teachers and other academic staff in Universities regulations, 2016. Clause 3.3.1 of the notification is extracted



hereunder for easy reference,

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3.3.1 NET/SLET/SET shall remain the minimum eligibility condition for recruitment and appointment of Assistant Professors in Universities/Colleges/Institutions:

Provided however, that candidates, who are or have been awarded a Ph.D Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D. Degree) Regulations, 2009 or the subsequent Regulations if notified by the UGC, shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/Institutions.

Further, the award of degrees to candidates registered for the M.Phil/Ph.D programme prior to July 11, 2009 shall be governed by the provisions of the then existing Ordinances/ By laws/ Regulations of the Institution awarding the degrees /and the Ph.D candidates shall be exempted from the requirement of the minimum eligibility condition of “NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/Institutions subject to the fulfillment of the following conditions:-

- (a) Ph.D. Degree of the candidate awarded in regular mode only;*
- (b) Evaluation of the Ph.D thesis by at least two external examiners;*
- (c) Candidate had published two research papers out of which at least one in a refereed journal from out of his / her Ph.D. Work;*
- (d) The candidate had presented two papers in seminars/conferences from out of his/her Ph.D. Work;*
- (e) Open Ph. D viva-voce of the candidate had*



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been conducted.

(a) to (e) as above are to be certified by the Vice-Chancellor/ Pro-Vice-Chancellor/ Dean (Academic Affairs)/Dean (University Instructions)”

14. By taking into consideration of the notification allowing the M.Phil degree holders prior to 11.07.2009, the Hon'ble Division Bench in the earlier writ appeal observed that the M.Phil degree holders prior to 11.07.2009 are eligible for exemption from NET/SLET as per the 3rd amendment UGC notification dated 04.05.2016.

15. Further, the UGC issued notifications dated 11.07.2016 regarding the exemption of Ph.D. programme prior to 11.07.2009. Clause 3 of the notification dated 11.07.2016 is extracted hereunder for easy reference,

3. The proviso prescribed under Regulation 3.3.1, 4.4.1, 4.4.2, 4.4.2.2, 4.4.2.3, 4.5.3 and 4.6.3 in the University Grants Commission (Minimum qualifications for appointment of teachers and other academic staff in Universities and Colleges and other measures for the maintenance of standards in higher education) (3rd Amendment) Regulations, 2016 regarding exemption to the



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candidates registered for Ph.D. Programme prior to July 11, 2009 shall stand amended and be read as under:

“Provided further, the award of degree to candidates registered for the M.Phil/Ph.D programme prior to July 11, 2009, shall be governed by the provisions of the then existing Ordinances/Bylaws/Regulations of the Institutions awarding the degree and the Ph.D candidates shall be exempted from the requirement of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/Institutions subject to the fulfillment of the following conditions:-

(a) Ph. D. degree of the candidate awarded in regular mode only;

(b) Evaluation of the Ph.D thesis by at least two external examiners;

(c) Open Ph. D viva voce of the candidate had been conducted;

(d) Candidate has published two research papers from his/her Ph.D. work out of which at least one must be in a refereed journal;

(e) Candidate has made at least two presentations in conferences/seminars, based on his/her Ph.D. work.

(a) to (e) as above are to be certified by the Vice-Chancellor/Pro-Vice-Chancellor/Dean (Academic Affairs)/Dean (University Instructions).”

16. The UGC in super-session of all the earlier notification and amendments issued fresh regulations vide notification dated



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18.07.2018, on minimum qualifications for appointment of teachers

and other academic staff in Universities and Colleges. Clause 3.3 of

the regulations dated 18.07.2018, is usefully extracted here under,



Clause 3.3

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I. The National Eligibility Test (NET) or an accredited test (State Level Eligibility Test SLET/SET) shall remain the minimum eligibility for appointment of Assistant Professor and equivalent positions wherever provided in these Regulations. Further, SLET/SET shall be valid as the minimum eligibility for direct recruitment to Universities/Colleges/Institutions in the respective state only;

Provided that candidates who have been awarded at Ph.D. Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of M.Phil/Ph.D. Degree) Regulation, 2009, or the University Grants Commission (Minimum Standards and Procedure for Award of M.Phil/Ph.D. Degree) Regulation, 2016, and their subsequent amendments from time to time, as the case may be, shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor or any equivalent position in any University, College or Institution.

Provided further that the award of degree to candidates registered for the M.Phil/Ph.D programme prior to July 11, 2009, shall be governed by the provisions of the then existing Ordinances/Bye-laws/Regulations of the Institutions awarding the degree. All such Ph.D. candidates shall be exempted from the requirement of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/Institutions subject to the fulfillment of the following conditions:

a) The Ph.D. degree of the candidate has been awarded in regular mode only;

b) The Ph.D. thesis has been awarded by at least two external examiners;



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- c) *An open Ph.D. viva voce of the candidate has been conducted;*
- d) *The candidate has published two research papers from his/her Ph.D. work out of which at least one is in a referred journal;*
- e) *The candidate has presented at least two papers, based on his/her Ph.D. work in conferences/seminars sponsored/funded/supported by the UGC/ICSSR/CSIR or any similar agency.*

17. By considering the educational qualification prescribed by the UGC in the regulations dated 18.07.2018, the second respondent has issued the impugned notification calling for applications to fill up the vacancies for the post of Assistant Professor. The notification stipulates that the National Eligibility Test / State Eligibility Test shall remain the minimum eligibility for the appointment of Assistant professor in the universities, colleges and institutions, provided the candidates who have been awarded the Ph.D degree in accordance with UGC regulations shall be exempted from the recruitment of the minimum eligibility condition of NET/SLET/SET for the recruitment and appointment of Assistant Professor subject to fulfillment of the conditions stipulated therein.



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18. The second respondent, while issuing Notification No.12/2019, calling for applications for direct recruitment to the post of Assistant Professors, has prescribed the educational qualifications under clause 6(b)(i) in accordance with the regulations issued by the UGC through notification dated 18.07.2018. The second respondent/Teachers Recruitment Board cannot prescribe qualifications on their own. They are bound by the UGC regulations that prescribe the qualifications for the post of Assistant Professor. When the educational qualifications have been fixed and advertised in the notification, as per the norms issued by the UGC notification, the same cannot be found fault with.

19. The learned counsel for the appellants strenuously argued by placing the orders passed in W.A., contending that the Division Bench has taken into account the 2016 regulations of UGC and therefore contended that candidates registered for M.Phil degree before 11.07.2009 are exempted from the minimum qualification for NET/SLET/SET. The arguments of the appellant cannot be accepted for the simple reason that the orders passed in the earlier writ appeal



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was in respect to earlier selection in which 2016 UGC regulations was considered, which was no longer in force. In suppression of the UGC amendment regulations 2016, UGC has issued regulations in notification dated 18.07.2018 amending the regulations prescribing the qualifications for the post of Assistant Professor.

20. When the second respondent/Teachers Recruitment Board, has issued the impugned notification calling for applications for the post of Assistant Professors, prescribing the qualifications as per the UGC regulations dated 18.07.2018, the challenge made by the appellants to the impugned notification issued by 2nd respondent cannot be sustained as the regulations of UGC mandates the possession of Ph.D degree for exemptions for NET/SLET/SET.

21. By taking into account of the above position, only Ph.D degree holders are exempted from the requirement of minimum educational qualification for NET/SLET/SET for recruitment and appointment as Assistant Professors. The appellants herein are all admittedly possessing only M.Phil degree obtained prior to



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11.07.2009 and are not entitled to seek any exemption. Therefore the

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approach of the learned single judge is not erroneous and we do not

find any reason to interfere with the orders passed by the learned



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Single Judge. Therefore, the above writ appeal is liable to fail and is accordingly dismissed. Consequently, connected Miscellaneous Petitions are also closed.

[R.S.K., J]

[G.A.M., J]

09.02.2024

Index : Yes/No
Speaking / Non-speaking order
drl

To:

1. The Principal Secretary to
Government of Tamil Nadu
Higher Education Department
St. George Fort, Secretariat,
Chennai.
2. The Chairman,
Teachers Recruitment Board
Higher Education Department,
St. George Fort, Secretariat,
Chennai.
3. The University Grants Commission
Bahadur Shah Zafar Marg
New Delhi – 110 002.

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R.SURESH KUMAR, J
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