



W.P.(MD) No.495 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.495 of 2020

and

W.M.P.(MD) No.408 of 2020

D.Bright Patturani

... Petitioner

Vs.

1.The District Primary Educational Officer,
District Primary Educational Office,
Thoothukudi District.

2.The Block Educational Officer-2,
Block Educational Office,
Karungulam,
Thoothukudi District.

3.The Teachers Recruitment Board,
Rep., by its Chairman,
4th Floor, EVK Sampath Maaligai,
Chennai.

... Respondents

***[R3 – Suo motu impleaded vide Court order
dated 20.12.2021 in W.P.(MD) No.495 of 2020]***



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Prayer: Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, to call for the records of the impugned order of the 1st Respondent, under Proceedings No. Oo.Mu.No. 3339/Aa2/2019, dated 27.08.2019 and quash the same as illegal and consequently directing the respondents to compute and disburse the eligible increment of salary to the petitioner on par with the similarly placed teaching staffs.

For Petitioner	:	Mr.K.R.Laxman
For RR1 & 2	:	Mr.V.Om Prakash Government Advocate
For R3	:	Mr.VR.Shanmuganathan Standing Counsel

ORDER

This writ petition has been filed questioning Proceedings No. Oo.Mu.No.3339/Aa2/2019, dated 27.08.2019 issued by Respondent No.1 refusing to grant annual increments to the petitioner since the date of her appointment as Secondary Grade Teacher on the ground that she has not passed the Teachers Eligibility Test and to declare the said proceedings as illegal and arbitrary and also sought for a consequential direction to the respondents to disburse the eligible increments together with arrears.



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2. The brief facts, that are relevant for the disposal of the writ petition, are as under:

The petitioner herein was appointed as Secondary Grade Teacher by Diocese of CSI Thoothukudi-Nazareth TNDTA Primary and Middle Schools on 28.06.2011. Thereafter, the said appointment made by the said school was approved by the District Elementary Educational Officer, Thoothukudi, through proceedings dated 30.03.2012 while imposing condition that the petitioner shall pass Teachers Eligibility Test within a period of five years. The petitioner could not pass the Teachers Eligibility Test. However, it is contended that the petitioner having been appointed on 28.06.2011, that is, much prior to the prescription of the qualification of pass in Teachers Eligibility Test, she is not required to acquire the said qualification for drawing the increments in the cadre of Secondary Grade Teacher. The claim of the petitioner was rejected through the impugned proceedings only on the ground that the petitioner has not passed the Teachers Eligibility Test.



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3. Though learned counsel for the petitioner and the learned Government Advocate argued the matter at length by raising several contentions, this Court does not deem it necessary to refer to all such contentions, as it is also brought to the notice of this Court that the very same issue has fallen for consideration before a learned Division Bench of the Principal Seat of this Court in W.A.No.313 of 2022 etc., and the learned Division Bench, by judgment dated 02.06.2023, having considered the very same issue elaborately, laid down the law declaring that any Teacher appointed as Secondary Grade teacher or Graduate Teacher 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 Teachers Eligibility Test. The relevant portion from the said decision is extracted hereinunder for clarity:

“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



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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., 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. (*Added as per the clarificatory order of this court dated 14.06.2023)*



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(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.”

4. In the light of the law declared by the learned Division Bench of this Court, which is binding on this Court, the impugned order dated 27.08.2019 passed by Respondent No.1 cannot be sustained under law and accordingly, the same is set aside with a further direction to the respondents to release the increments that are due to the petitioner since the date of her



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appointment by duly refixing the pay of the petitioner and release the entire arrears payable to the petitioner within a period of three months from the date of receipt of a copy of this order.

5. Accordingly, this Writ Petition is allowed. No costs.
Consequently, connected miscellaneous petition, if any, shall stand closed.

13.02.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

ABR

To

- 1.The District Primary Educational Officer,
District Primary Educational Office, Thoothukudi District.
- 2.The Block Educational Officer-2,
Block Educational Office,
Karungulam, Thoothukudi District.
- 3.The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai, Chennai.



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MUMMINENI SUDHEER KUMAR, J.

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