



W.P.(MD)Nos.4333 and 4334 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)Nos.4333 and 4334 of 2024

and

W.M.P.(MD)Nos.4153 and 4159 of 2024

W.P.(MD)No.4333 of 2024:

J.Joyce Josephine Nesa Packiam

... Petitioner

Vs.

1.The District Elementary Educational Officer,
Vallioor, Tirunelveli District.
Previously office at
Tirunelveli, Tirunelveli District.

2.The Block Educational Officer,
Vallioor, Tirunelveli District.

3.The Correspondent,
L M Middle School,
Kannankulam – 627 127,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the first



W.P.(MD)Nos.4333 and 4334 of 2024

respondent herein in Ni.Mu.No.4495/A2/2014 dated 28.03.2017 (signed on 02.04.2018), quash the same and further direct the first respondent herein to disburse the yearly increments and all other attendant monetary benefits to the petitioner w.e.f., date of appointment i.e., 14.10.2011.

For Petitioner : Mr.A.Ajith Geethan

For R-1 and R-2 : Mr.M.Siddharthan
Additional Government Pleader

W.P.(MD)No.4334 of 2024:

P.Anna Muthu

... Petitioner

Vs.

1.The District Elementary Educational Officer,
Vallioor, Tirunelveli District.
Previously office at
Tirunelveli, Tirunelveli District.

2.The Block Educational Officer,
Vallioor, Tirunelveli District.

3.The Correspondent,
L M Middle School,
Kannankulam – 627 127,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the first



W.P.(MD)Nos.4333 and 4334 of 2024

respondent herein in Ni.Mu.No.1112/A2/2018 dated 23.03.2018, quash the same and further direct the first respondent herein to disburse the yearly increments and all other attendant monetary benefits to the petitioner w.e.f., date of appointment i.e., 19.10.2017.

For Petitioner : Mr.A.Ajith Geethan

For R-1 and R-2 : Mr.M.Siddharthan
Additional Government Pleader

COMMON ORDER

Heard Mr.A.Ajith Geethan, learned counsel for the petitioners and Mr.M.Siddharthan, learned Additional Government Pleader for the respondents 1 and 2.

2. These Writ Petitions have been filed seeking to quash the orders of the first respondent dated 28.03.2017 and 23.03.2018 with a consequential direction to the first respondent to disburse the yearly increments and all other attendant monetary benefits to the petitioners w.e.f., 14.10.2011 and 19.10.2017 respectively.



W.P.(MD)Nos.4333 and 4334 of 2024

3. The petitioners have been appointed in the third respondent School as B.T.Assistant (Science) on 14.10.2011 and Secondary Grade Teacher on 09.10.2017 respectively. Even though the first respondent has granted approval to the appointment of the petitioners with effect from the date of their appointment, the petitioners entitlement for annual increments have been rejected. The reason for granting the limited approval for the salary alone is in view of the fact that the petitioners have not passed the TET eligibility at the time of appointment. So, it is observed in the impugned order that the petitioners are eligible to claim the annual increments only if they qualify with the TET eligibility.

4. However, Mr.A.Ajith Geethan, learned counsel for the petitioners submitted that the third respondent School being a Minority Institution, the condition of passing the TET is not mandatory for the appointees of the minority schools. He further submitted that the Government Order passed in this regard in G.O.Ms.181 School Education Department dated 15.11.2011 was held to be inapplicable in the case of minority institutions and hence the petitioners have to be granted with the other benefits.



W.P.(MD)Nos.4333 and 4334 of 2024

WEB COPY

5. Similar issue has been dealt by the Hon'ble Division Bench of this High Court in ***W.A(MD)No.313 of 2022 and batch (The Director of School Education & Others Vs. M.Velayutham & Another)***, dated **02.06.2023**, the relevant portion of the order in paragraph No.71.1, is extracted hereunder:

“71.1. A perusal of the orders impugned in the writ petitions leading to these writ appeals would indicate that the fact that the teachers, in respect of whom approval of appointment was sought for by the school, did not possess TET pass eligibility was not a ground for refusal for grant of appointment approval, nor was it an issue raised before the Learned Single Judge at the time of disposal of the writ petitions. Only in the writ appeals, the State Government has raised an additional ground that the teachers whose appointment approval was sought for, did not possess TET. Notwithstanding the same, it is hereby clarified that by virtue of the judgment of the Constitution Bench of the Hon'ble Supreme



WEB COPY



W.P.(MD)Nos.4333 and 4334 of 2024

Court in Pramati Educational and Cultural Trust & Ors. v. Union of India, [(2014) 8 SCC 1], wherein it was held that the RTE Act, 2009 insofar as it applies to minority schools, aided or unaided, covered under Article 30(1) is ultravires the Constitution, meaning thereby that the 2009 Act will not apply to minority schools, the eligibility of TET pass as required for appointment of teachers in non-minority schools, will not apply to minority schools. In other words, the approval of appointment of teachers in minority schools, both aided and unaided, cannot be refused or rejected on the ground that they do not possess a pass in TET. Further this specific issue is also pending consideration before the Supreme Court and the law laid down by the Supreme Court in Pramati Educational and Cultural Trust, cited supra, holds the field as on today. For these reasons, the order of the Learned Judge in the writ petitions is affirmed and the above four writ appeals are dismissed.”



W.P.(MD)Nos.4333 and 4334 of 2024

6. In fact, the approval which has been granted, ought not to have been denied with the annual increment, in view of the fact that the petitioners did not have the TET eligibility. As stated already and as per the law at this point is settled in the above judicial pronouncements, the impugned order disallowing the annual increment for the petitioners citing the reasons of TET eligibility is liable to be set aside.

7. In view of the above stated reasons, these Writ Petitions are **allowed** and the impugned proceedings in Ni.Mu.No.4495/A2/2014 dated 28.03.2017 and Ni.Mu.No.1112/A2/2018 dated 23.03.2018 are set aside. The respondents are directed to consider the petitioner's claim with regard to disbursing the annual increments and all other monetary benefits, from the date on which they are eligible and pass orders, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

20.06.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

7/9



W.P.(MD)Nos.4333 and 4334 of 2024

To:

WEB COPY

- 1.The District Elementary Educational Officer,
Vallioor, Tirunelveli District.
Previously office at
Tirunelveli, Tirunelveli District.
- 2.The Block Educational Officer,
Vallioor, Tirunelveli District.



WEB COPY



W.P.(MD)Nos.4333 and 4334 of 2024

R.N.MANJULA, J.

Nsr

W.P.(MD)Nos.4333 and 4334 of 2024

20.06.2024