



W.P.(MD)No.9299 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2024

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.(MD)No.9299 of 2024

and

W.M.P.(MD).Nos.8474 and 8477 of 2024

K.Bashiri

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George,
Chennai – 600 009.
- 2.The Director of School Education,
College Road,
Chennai – 600 006.
- 3.The Chief Educational Officer,
Madurai District,
Madurai.
- 4.The District Educational Officer,
Melur,
Madurai District.
- 5.The Correspondent,
Melur Al-Ameen Urudu Tamil Muslim High School,
Melur,
Madurai District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the third respondent vide his proceedings in O.Mu.No.9389/A6/2023, dated 01.02.2024 and quash the same as illegal and consequently direct the third respondent to approve forthwith the petitioner's promotion as B.T.Assistant (Tamil) in the fifth respondent school Melur Al-Ameen Urudu Tamil Muslim High School, Melur, Madurai District with effect from the date of her promotion on 13.06.2022 with all attendant benefits including the arrears of salary and allowance and all the retirement benefits including pension from the date of the petitioner's retirement dated 30.04.2023.

For Petitioner : Mr.J.Lawrance

For R-1 to R-4 : Mr.T.Amjad Khan
Government Advocate

ORDER

This Writ Petition has been filed seeking to quash the order dated dated 01.02.2024 passed by the third respondent and consequently direct the third respondent to approve the petitioner's promotion as B.T.Assistant (Tamil) forthwith in the fifth respondent school with effect from 13.06.2022 with all attendant benefits including the arrears of salary and allowance and all the retirement benefits including pension from the date of the petitioner's retirement dated 30.04.2023.



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WEB COPY 2. Heard Mr.J.Lawrance, learned counsel for the petitioner and Mr.T.Amjad Khan, learned Government Advocate for the respondents.

3. Mr.J.Lawrance, learned counsel for the petitioner submitted that the petitioner who was working as a Secondary Grade Teacher in the 5th respondent School was promoted as B.T.Assistant (Tamil) with effect from 13.06.2022, in the vacancy that arose due to the promotion of S.Saleem as Headmaster. The said appointment was made in the sactioned post of B.T.Assistant (Tamil) as determined by the third respondent in the staff fixation. The petitioner had joined on the same day and he has been working in the said post till his superannuation i.e., on 30.04.2023. The management has sent a proposal for approval to the authorities. The 3rd respondent vide impugned order, dated 01.02.2024 has rejected the approval on the ground that the petitioner has not passed the TET examination. According to the learned Counsel for the petitioner, the petitioner's School (5th respondent) is a minority institution and therefore, any appointment to the teaching post does not require a TET qualification.Hence, he prayed to set aside the order impugned in this Writ Petition.



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3. 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 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*



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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.”

4. In the light of the above judgment, the impugned order dated 01.02.2024 is set aside and the matter is remitted back to the file of the third respondent. It is made clear that a pass in TET examination is not mandatory for being appointed as a teaching faculty in a minority institution. Therefore, the third respondent is directed to approve the appointment of the petitioner with effect from 13.06.2022 and grant all attendant benefits including the arrears of salary and allowance and all the retirement benefits including pension from the date of his promotion to the date of his retirement. The said exercise shall be completed within a period of six weeks from the date of receipt of copy of this order.



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WEB COPY 5. This Writ Petition is **allowed** on the above terms. No costs.

Consequently, connected miscellaneous petitions are closed.

16.04.2024

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

To:

- 1.The Secretary,
The State of Tamil Nadu,
Department of School Education,
Fort St.George,
Chennai – 600 009.
- 2.The Director of School Education,
College Road,
Chennai – 600 009.
- 3.The Chief Educational Officer,
Dindigul – 624 001,
Dindigul District.
- 4.The District Educational Officer,
Palani Educational District,
Palani,
Dindigul District.



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R.N.MANJULA, J.

Nsr

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