



WP(MD) No.16472 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.07.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.16472 of 2024

and

W.M.P(MD)Nos.14268 & 14269 of 2024

S.Sheela Grace

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George,
Chennai – 600 009.

2.The Director of School Education,
College Road,
Chennai - 600006.

3.The Chief Educational Officer,
Madurai District,
Madurai.



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4. The District Educational Officer,
(Secondary Education),
Madurai District,
Madurai - 625 002.

5. The Bishop -Manager of Schools,
Diocese of Madurai-Ramnad,
Church of South India,
Diocesan Office,
No.162, East Veli Street,
Madurai – 625 001.

6.The Correspondent,
Capron Hall Girls Higher Secondary School,
Madurai,
Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order issued by the 4th respondent vide his proceedings in Na.Ka.No.9928/Aa5/2024 dated 30.04.2024 and quash the same as illegal and consequently to direct the 3rd respondent to approve forthwith the petitioner's promotion as B.T



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Assistant (Tamil) in the 6th respondent school w.e.f. the date of her promotion i.e., 14.06.2024 with all attendant benefits including the arrears of salary and allowance and for other reliefs.

For Petitioner : Mr.J.Lawrance

For Respondents : Mr.M.Siddharthan – for R1 to R4
Additional Government Pleader

ORDER

The present writ petition has been filed seeking a Writ of Certiorarified Mandamus challenging the impugned order dated 30.04.2024 of the 4th respondent and consequently to direct the 3rd respondent to approve forthwith the petitioner's promotion as B.T Assistant (Tamil) in the 6th respondent school w.e.f. the date of her promotion i.e., 14.06.2024 with all attendant benefits including the arrears of salary and allowance and for other reliefs.

2.Heard Mr.J.Lawrance, learned counsel appearing for the petitioner, Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents.



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3. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

4. The petitioner was appointed as a Secondary Grade Teacher on 01.08.2022 in CSI Primary School under the 5th respondent Corporate Management. Later, the petitioner was promoted as B.T Assistant on 14.06.2022 and posted at 6th respondent school. When the promotion proposal of the petitioner was sent to the respondent authorities for approval, it was rejected. The impugned order has been passed on 30.04.2024 directing the 6th respondent to produce Teacher Eligibility Test pass of the petitioner.

5. The learned counsel for the petitioner submitted that the 5th and 6th respondent school is a minority institution coming under the corporate management and for which, pass in TET is not mandatory.

6. Reference was made to the earlier judgment passed by this Court in W.P(MD)Nos.8928 and 8929 of 2024 which dealt with a case of similarly placed persons.



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7. The learned Additional Government Pleader submitted that by challenging the order passed in the W.A(MD)No.313 of 2022 which has settled the position of law that TET pass is not mandate for the teachers appointed in the minority institution and Special Leave Petition has been filed in S.L.P.No.45649 of 2023 and the same is pending before the Hon'ble Supreme Court.

8. Hence, the matter is no more *res-integra* as it has already been settled in the judgment rendered in W.A(MD)No.313 of 2022 and which have been followed in various subsequent judgments.

9. For the sake of clarity, the relevant part of the order dated 17.04.2024 made in W.P(MD)Nos.8928 and 8929 of 2024 is extracted as below :

“6. Though it is held in the above judgment that pass in TET is an essential eligibility for the direct recruitment to the post of Secondary Grade Teachers and BT Assistants, the said mandate is not applicable to minority schools both aided and unaided schools. It is in view of the special status and privilege given to the



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minority institutions under Article 30 of the Constitution of India. Since the pass in TET for minority institutions has been held to be not necessary, the respondents need not wait for the outcome of the W.A(MD)No.1177 of 2023 filed by the petitioners. Even the petitioners have filed an appeal and the same is pending, the respondent cannot deny the applicability of the advantage of the Division Bench order dated 02.06.2023 held in W.A.No. 313 of 2022 etc., batch.

7. The law has been settled in W.A.No.313 of 2022 etc., batch and hence the 4th respondent ought to have passed an order not only granting the monetary benefits other than the salary which was withheld earlier for want of TET pass and also to accommodate the approval for appointing the petitioners for the post of PG Assistant on promotion. Even though the Government has challenged the order passed in W.A.No.313 of 2022 etc., batch by filing SLP.No.45649 of 2023, the subject matter of the challenge is not in respect of excluding the minority institutions from the mandate of pass in TET but for making the pass in TET as a mandate for the promotion to the post of PG Assistant/Headmasters in the Government and aided Schools.

8. In view of the above stated reasons the impugned orders passed by the 4th respondent/District



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Educational officer in Na.Ka.No.3435/A3/2023 dated 20.07.2023 and Na.Ka.No.2071/A3/2022 dated 30.06.2023 are hereby set aside. The fourth respondent is directed to pass appropriate order within a period of eight weeks from the date of receipt of a copy of this order.”

10. In view of the above stated reasons, the writ petition is allowed and the impugned order, dated 30.04.2024 of the 4th respondent is hereby set aside. The fourth respondent is directed to pass appropriate order within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM



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To
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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.16472 of 2024

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