



WP(MD) Nos.18132 & 18133 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.08.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) Nos.18132 & 18133 of 2024

K.Balasumathi ... Petitioner in W.P.(MD) No.18132 of 2024

M.Latha ... Petitioner in W.P.(MD) No.18133 of 2024

Vs.

1.The State of Tamilnadu

Rep by its Principal Secretary to Government,
School Education Department,
Fort. St. George,
Chennai - 600 009.

2.The Commissioner of School Education,

Directorate of School Education,
DPI Campus,
College Road,
Chennai 600 006.



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3.The Joint Director of School Education (Personnel),

DPI Campus,
College Road,
Chennai 600 006.

4.The Director of School Education,

Directorate of School Education,
DPI Campus,
College Road,
Chennai 600 006.

5.Teachers Recruitment Board (TRB),

Rep. by Member Secretary,
4th Floor, EVK Sampath Building,
DPI Campus,
College Road,
Chennai 600 006.

6.The Chief Educational Officer

O/o.The Chief Educational Office,
Ramanathapuram District.

... Respondents in both petitions

COMMON PRAYER : Writ Petitions filed under Article 226 of the
Constitution of India, praying this Court to issue a Writ of Declaration



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to declare that the petitioners are entitled to be appointed as Secondary Grade Teacher on the basis of TET Marks and TET passed year seniority they have completed certificate verification in the year 2014 before 20.07.2018 i.e., the date of passing of G.O.Ms.No.149, School Education (TRB) Department, dated 20.07.2018, without resorting to any competitive examination by extending the benefit of the order in W.P.No.26084 of 2023, dated 10.07.2024.

For Petitioners : Mr.I.Pinaygash

For Respondents : Mr.R.Bhaskaran, - for R1 to R4 & R6
Additional Advocate General
assisted by Mr.M.Siddharthan
Additional Government Pleader
V.R.Shanmuganathan - for R5
Standing Counsel

COMMON ORDER

Since the issue raised in these writ petitions is one and the same, these writ petitions are disposed of, by way of this common order.

2. Heard Mr.I.Pinaygash, learned counsel appearing for the



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petitioners and Mr.R.Bhaskaran, learned Additional Advocate General assisted by Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents 1 to 4 and 6 and Mr.V.R.Shanmuganathan, learned Standing Counsel appearing for the fifth respondent.

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

4. The petitioners completed TET examination during against 2013. During the relevant point of time, the Government had adopted the policy to Secondary Grade Teacher if they have TET passed and thereafter, the Government has changed the policy and issued G.O. (Ms)No.149, dated 20.07.2018 to conduct competitive examination through Teachers Recruitment Board. However, similarly placed persons nearly 400 in numbers had approached this Court in W.P.Nos.26084 of 2023 etc., batch and sought for the intervention of the Court with regard to the change in the policy of the Government and to consider their appointments. The petitioners claim that they are also similarly placed persons who have been called upon for certificate verification and



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hence, the benefit of the order should also be extended to the petitioners as well.

5. The learned Additional Advocate General submitted that in the order, dated 10.07.2024 of the Division Bench, it has been categorically held that the relief granted in the above writ petitions is applicable only for those persons, who have knocked the doors of the Court and not for the fence sitters, who have just watching the proceedings. The relevant part of the order is extracted as under :

“36. In view of the above discussion and findings, we are of the considered opinion that the writ petitioners are entitled to the reliefs sought herein. However, as stated earlier, this order is only restricted to these petitioners alone.

37. The petition in WMP No. 7353 of 2024 in W.P. No. 26133 of 2023, has been filed to implead the petitioners therein in the writ petition mentioned hereinabove, without stating in what capacity they seek to be impleaded, while making stray averments that they are similarly placed as the petitioners. Also, the said petition has been filed after the arguments were completed in the writ petitions and the counsel



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for the impleading petitioners was not able to answer any of the queries raised by this Court. Therefore, we are of the view that the impleading petition is thoroughly misconceived in law and the same deserves to be dismissed with exemplary costs. However, we refrain from imposing any costs. As such, this miscellaneous petition is dismissed.

38. In the result, all the writ petitions are allowed with a direction to the State Government to continue the process of appointment left midway in 2017, insofar as the petitioners are concerned and appoint them as Secondary Grade Teachers, or Graduate Assistants as the case may be, as expeditiously as possible, without causing any further delay, if they are otherwise eligible for appointment as per the eligibility criteria laid down by the NCTE, and to appoint them as teachers depending on their respective merit/ranking as per the weightage method and their TET scores, applying the rule of reservation accordingly. As these writ petitions were filed well before the recruitment notification dated 25.10.2023, number of vacancies already advertised in the said recruitment notification or the present number of vacancies shall not be cited as a reason for not giving effect to the direction stated above.



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WMP No.7353 of 2024 is dismissed. WMP No. 35331 of 2023 is closed. No costs.”

6. For those persons who have conducted the writ proceedings are given with the relief that they are entitled to get appointment without taking the further risk of participating in the competitive examination in response to any future notification, if they are otherwise found to be eligible.

7. The learned counsel for the petitioners submitted that the right affected by the petitioners are the fundamental rights and hence, the same cannot be restricted by the order of this Court and hence, the petitioners are also entitled to get the similar relief.

8. So far as the relief granted in the above writ petition is concerned, it is not a right in *rem* by holding any decision as to the policy of the Government or by rendering the policy of the Government itself is not legal or short sighted.



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9. The relief has been granted only by considering the fervent request of those persons, who have been fighting in the corridors of the Court by watching the developments every now and then and the relief is also granted is person specific and not policy specific.

10. In such a case, the petitioners cannot claim that the relief granted in the above writ petition is extendable to themselves, as though is a right in *rem*.

11. It is needless to state that the above order has also made a distinction between the right in *rem* and right in *personam*, while dealing with the above writ petitions and concluded that it is a right in *personam* granted to the petitioners therein. In fact, it is also brought to the notice of this Court that some of the petitioners who have subsequently filed petitions to implead themselves in the pending writ petitions have also not been allowed to implead themselves and their petitions were rejected. In such a case, the petitioners cannot seek a fresh cause of action on the matter which has been already settled once and for all. In fact, the petitioners can have a better right if at all he



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thinks that he has a right. That can be only by way of filing a writ appeal against the earlier order by seeking leave. As such the petitioners have not established their right in favour of them in pursuant to the order passed in the earlier proceedings before the Court and as referred above.

12. Hence, these writ petitions are dismissed. No costs.

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



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R.N.MANJULA, J.

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