



W.P.(MD)No.20165 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.10.2024

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.20165 of 2024

and

W.M.P(MD)No.17110 of 2024

S.Rajkumar

... Petitioner

Vs.

1.The Chief Educational Officer,
O/o.The Chief Educational Officer,
Thoothukudi District.

2.The District Educational Officer,
O/o.The District Educational Officer,
Thoothukudi District.

3.The St.Francis Xavier's Higher Secondary School,
Rep. by the Correspondent,
Chinna Kovil Compound,
Thoothukudi District – 628 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.173/A3/2024, dated 26.07.2024 on the file of the second respondent and quash the same as illegal and consequently, to direct the second respondent to approve the appointment of the petitioner to the promotion post of B.T.Assistant (Tamil) with effect from 09.06.2017 with the



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third respondent minority school and disburse the consequential monetary benefits.

For Petitioner : Mr.I.Pinaygash
For R1 to R2 : Mr.N.Satheesh Kumar
Additional Government Pleader
For R3 : Mr.K.Ragatheeshkumar
Fro M/s.Issac Chamber

ORDER

The instant writ petition has been filed by a Secondary grade teacher challenging the order passed by the second respondent herein, wherein, the order of promotion granted to the petitioner as B.T.Assistant (Tamil) has not been approved.

2. The petitioner herein was working as secondary grade teacher in the third respondent aided minority institution. The school management has thought it fit to promote the petitioner as B.T.Assistant (Tamil) with effect from 09.06.2017. The school management has sent the said proposal to the second respondent for approval. Under the impugned order, dated 26.07.2024, the second respondent has rejected the said proposal on the following grounds:



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(a) The petitioner has not passed TET examination

(b) Before acquiring higher qualification, the petitioner has not obtained prior permission from the competent authorities.

3. According to the learned counsel for the petitioner, the third respondent being an aided minority institution, pass in TET examination is not mandatory either for appointment or for promotion. He further relied upon the judgments of this Court, wherein, the Division Benches of this Court have consistently held that non-obtaining of prior permission for acquiring higher qualification will not disentitle the teacher from receiving incentive increment or promotion.

4. Per contra, the learned Additional Government Pleader for the respondents 1 and 2 contended that a pass in TET examination is mandatory whether it is minority or non-minority institution. He further relied upon G.O.Ms.No.944, Education Department, dated 29.07.1989 and contended that prior permission to undergo higher studies is mandatory and therefore, any qualification acquired without obtaining prior permission cannot be taken into consideration for incentive increment or promotion.



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5. I have carefully considered the submissions made on either sides and perused the materials on record.

6. The Division Bench of this Court in W.A.No.313 of 2022etc., batch reported in **2023 3 L.W 112** has categorically held that pass in TET examination is not mandatory either for appointment or for promotion as far as the minority institution is concerned. Therefore, the first reason assigned in the impugned order is liable to be set aside.

7. The Division Bench of this Court in W.A.No.1124 of 2023, dated 24.07.2023 has held that non-obtaining of prior permission for acquiring higher qualification could not be a legal impediment for considering grant of incentive increment or promotion. Therefore, the second reason assigned in the impugned order is also liable to be set aside.

8. In view of the above deliberations, the order impugned in the writ petition is set aside and the second respondent is directed to approve the promotion of the petitioner as B.T.Assistant (Tamil) with effect from 09.06.2017 with all attendant benefits and pass orders within a period of 12 weeks from the date of receipt of copy of this order.



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9. The writ petition stands allowed with the above direction. No costs.

Consequently, connected miscellaneous petition is closed.

19.10.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
SN

To:

- 1.The Chief Educational Officer,
O/o.The Chief Educational Officer,
Thoothukudi District.
- 2.The District Educational Officer,
O/o.The District Educational Officer,
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R.VIJAYAKUMAR, J.

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