



W.A.No.241 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE P. DHANABAL

W.A.No.241 of 2023

The Chairman
Teachers Recruitment Board
College Road, Chennai – 6.

.. Appellant

Vs.

1. E.Agalya

2. The Director of Higher Secondary School Education
College Road, Chennai – 6.

3. The Chief Educational Officer
Erode District.

4. The District Educational Officer
Erode District.

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent, against the order dated 05.12.2023 made in W.P.No.33030 of 2013.

For the Appellant : Mr.R.Neelakandan
Additional Advocate General
assisted by Mr.C.Kathiravan
Standing Counsel

For the Respondents : Mr.R.Neethiperumal
Government Advocate
for R2 and R4

No Appearance for R1 and R3

Amicus Curiae : Mr.L.Chandrakumar



W.A.No.241 of 2023

JUDGMENT

(Judgment of the Court was made by R.SURESH KUMAR, J.)

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This intra-Court appeal has been directed against the order passed by the Writ Court dated 05.12.2013 made in W.P.No.33030 of 2013.

2. That the first respondent was having the qualification of B.A. Degree and B.Ed. Degree in the year 2007 and she was also qualified in M.A. Degree in English Literature in the year 2009. After having acquired these qualifications, she registered her name in the Employment Exchange on 10.07.2007.

3. While so, the Government of Tamil Nadu issued Government Orders in G.O.Ms.Nos.145 and 146, School Education (Budget 2) Department, dated 29.06.2009 for appointment of Graduate Assistant in the Higher Secondary Schools. As per the said Government Orders, selection shall be made based on the qualification of various candidates from the names sponsored by the Employment Exchange, after having certificate verification. Therefore, since the name of the first respondent also was sponsored by the Employment Exchange, a call-letter was issued by the appellant on 30.04.2010, calling upon the first respondent to appear on 12.05.2010 for certificate verification.



W.A.No.241 of 2023

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4. Pursuant to the said call-letter dated 30.04.2010, the first respondent/writ petitioner also appeared before the Authority concerned on 12.05.2010 for certificate verification and the certificates also were verified. Thereafter, no further proceedings have been issued and no appointment order has been given.

5. In the meanwhile, under Section 23 of the Right of Children to Free and Compulsory Education Act, 2009, an Academic Authority has been named, that is the National Council for Teacher Education [in short, "NCTE"], which has also issued notification, under which, the NCTE has prescribed the qualification of Teachers Eligibility Test [in short, "TET"], which should be conducted by every State Agencies at various levels, that is Primary, Secondary and Higher Secondary level of Teachers to be recruited for Government, as well as Government Aided Schools and Private Schools.

6. Such notification was issued by the NCTE on 23.08.2010 and by virtue of such notification dated 23.08.2010, which has come into effect from 23.08.2010, the qualification of TET since has been prescribed, even though certificates of the candidates like the first respondent having been verified pursuant to G.O.Ms.Nos.145



W.A.No.241 of 2023

and 146, as on 12.05.2010, that is three months prior to the notification issued by the NCTE, subsequently, no appointments have been made. The reason being that, the candidates those who did not have the qualification of TET would not be eligible to be considered for appointment to the post of B.T. Assistant or Secondary Grate Assistant.

7. When this was the position, where the first respondent could not get any proceedings for selection or appointment from the appellant Authorities pursuant to the certificate verification held on 12.05.2010, the first respondent has approached the Writ Court by filing the said writ petition, that is W.P.No.33030 of 2013, seeking a writ of mandamus, directing the respondents 1 and 2 therein, who are the appellant and second respondent herein, to select and appoint the first respondent/writ petitioner to the post of Graduate Assistant based on the certificate verification held on 12.05.2010 without insisting for appearance and the qualification in TET.

8. The said writ petition, having been heard by the Writ Court, was allowed by the order of the Writ Court dated 05.12.2013, which is impugned in the present writ appeal.



W.A.No.241 of 2023

9. Heard *Mr.R.Neelakandan*, learned Additional Advocate General, assisted by *Mr.C.Kathiravan*, learned Standing Counsel for the appellant and *Mr.R.Neethiperumal*, learned Government Advocate appearing for respondents 2 and 4.

10. Despite notice having been served and the learned counsel entered appearance, no one appears for more than one hearing for respondents 1 and 3. Therefore, in order to assist, the Court had appointed *Mr.L.Chandrakumar*, learned counsel, as *Amicus Curiae*, who has readily accepted the same and also made submissions before this Court.

11. The learned Additional Advocate General for the appellant as well as the learned *Amicus Curiae* has produced a copy of the judgment of a Division Bench of this Court, where one of us (RSKJ) is a party, dated 12.01.2024 made in W.A.No.1963 of 2012 & etc. batch in the matter of ***P.Paul Sam Asir and Ors. vs. E.Jasmin Shanthi and Ors.*** By relying upon the said Division Bench judgment, the learned Additional Advocate General appearing for the appellant as well as the learned *Amicus Curiae* would submit that the issue raised in this writ appeal has been squarely covered by the decision of the Division Bench, where one of us (RSKJ) is a



W.A.No.241 of 2023

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12. Insofar as TET qualification is concerned, it is one of the essential qualification that has been prescribed by the NCTE, which is an Academic Authority named under Section 23 of the Right of Children to Free and Compulsory Education Act, 2009. Even though such notification, prescribing TET as an essential qualification to hold the post of Teacher at various levels, had been issued by the NCTE on 23.08.2010 and thereafter only such insisting has taken place, before which, whatever the appointment that has been made without such a qualification of TET is concerned, Courts have already taken a view that those appointments need not be disturbed and in some cases, the view taken was that those who got appointment without TET qualification shall qualify themselves within a period of five years and subsequently, the period has been extended from time to time and at one point of time, even the period lapsed. Therefore, those who could not qualify themselves with TET qualification would become ineligible to hold the post of Teacher.

13. Insofar as the qualification of TET is concerned, it has



W.A.No.241 of 2023

become essential and a fixed qualification to hold the post of a Teacher and that has become final and is settled in a number of cases. However, one distinction that has been sought to be made in the present case as per the judgment of the learned Single Judge, that is impugned herein, is that the certificates of the candidates have been verified, which was the sole purpose of which the appointment would be made on 12.05.2010 itself, that is, at least 3 months prior to the notification dated 23.08.2010 issued by the NCTE.

14. Before 23.08.2010 notification, if certificates are verified, then the process of selection was over and had there been appointments prior to 23.08.2010, those appointees would have escaped from the clutches of NCTE notification to have the qualification of TET.

15. In this context, a learned Single Judge's order, made in W.P.No.12803 of 2013 and etc. batch dated 16.08.2013, has been relied upon by the Writ Court in the impugned order and ultimately, the Writ Court has allowed the said writ petition through the impugned order.



W.A.No.241 of 2023

16. However, these kind of issues have already been settled in a number of decisions and one such decision of a Coordinate Bench of this Court in a batch of writ petitions in W.P.No.4827 of 2012 and etc. batch in the case of ***T.S.Anbarasu and Ors. vs. The State of Tamil Nadu and Ors.*** dated 03.11.2015 has passed an exhaustive judgment, where, the below mentioned decisions have been made:-

"In the result, the questions framed by the Hon'ble Supreme Court are answered as follows:-

(i) The petitioners/appellants concede that there was no advertisement and the posts were notified by various Government orders, and the question is answered accordingly;

(ii) The petitioners/appellants do not dispute that the posts have been filled up and there is no challenge to the select list;

(iii) The petitioners/appellants concede that the selection was based on State wide seniority in the employment exchange coupled with communal rotation and not based on inter se merit.

(iv) The selection being only based on employment seniority and communal rotation, inter se merit was not the criteria for selection.

(v) In the light of the discussion in the preceding paragraphs, it is held that the petitioners/appellants have no vested right much less a right in perpetuity to have the appointment."

17. Insofar as the Division Bench judgment in ***P.Paul Sam***



W.A.No.241 of 2023

Asir (cited *supra*), where one of us (RSKJ) is a party, this issue has also once again come up for consideration as to the essential requirement of TET qualification to hold the post of Teacher. In this context, a Single Judge's order has been extracted in the said judgment, which has been appealed before the Division Bench, where also it has been held so. The Division Bench, in W.A.No.1736 of 2012 in the matter of **R.Rajmohan vs. Additional Chief Secretary to Government, School Education (C2) Department and Ors.**, has confirmed the order passed by the Single Judge, as against which, even though it was claimed that Special Leave Petition, that is S.L.P.(C) No.31042 of 2012, has been filed before the Hon'ble Supreme Court and the same is kept pending, there is no stay granted as against the order or the view taken by the High Court and as of now, the view taken by the High Court, as has been confirmed by the Division Bench in the said case in **R.Rajmohan** (cited *supra*) still holds the filed.

18. This legal position has been taken note of by the Division Bench in the said judgment dated 12.01.2024 in **P.Paul Sam Asir** (cited *supra*), where, the Division Bench has passed the following orders:-

"8. *Mr.S.N.Ravichandran, learned counsel*



W.A.No.241 of 2023

for the appellants in W.A.No.1963 of 2012 would contend that, as against the said order the said Rajmohan had filed Special Leave Petition before the Hon-ble Supreme Court in S.L.P.(C) No.31042 of 2012, where an interim order of keeping one post vacant for the petitioner was ordered and the said S.L.P., is still pending consideration before the Hon-ble Supreme Court.

9. However, the point to be considered is that, whether the teachers who have been trained for holding the post of teachers at various levels like Secondary Grade Assistant/Secondary Grade Teacher, B.T.Assistant and P.G.Assistant can be selected and appointed in the schools run by the Government without TET qualification despite the provisions of the mandatory guidelines issued by the academic authority, which was in fact decided by more than one decision.

10. It has been settled consistently that those who qualified in TET qualification alone would be eligible to be considered for appointment to the post of teachers including Secondary Grade Teacher. Therefore, as per such a settled proposition, the respondents in the writ petition, who are appellants in the writ appeals cannot seek for any relief from this Court to select them to the post of teachers ie., Secondary Grade Teacher, admittedly without having the qualification of TET.

11. Therefore, based on the settled legal proposition since the writ petition was dismissed and has been confirmed by the Division Bench as stated supra and the very impugned order itself has already been upheld by the Division Bench of this Court and the said decision so far has not been varied, we do not want to deviate from the earlier order passed by this Court. As it has been passed by a Coordinate Bench, we are bound to follow the same. Therefore, we do agree with the view taken by the learned Judge as has been



W.A.No.241 of 2023

confirmed by the Division Bench order dated 22.08.2012 in W.A.No.1736 of 2012 in the matter of "R.Rajmohan ~vs~ The Additional Chief Secretary to Government, School Education (C2) Department and Others" and accordingly these appeals fail and the same are accordingly dismissed. No costs.

12. Insofar as the writ petition in W.P.No.33206 of 2013 is concerned, which has been filed with a prayer for a Mandamus to consider the candidature of the petitioner for appointment to the post of Secondary Grade Teacher without insisting TET qualification, the same also has to face the same fate as that of the appeals. Therefore, that writ petition is also liable to be dismissed and it is accordingly dismissed. No costs.

13. In result, all the writ appeals as well as the writ petition stand dismissed, for the reasons stated herein above."

19. The learned *Amicus Curiae* also, who is appearing at the request of the Court, has fairly stated that in view of the earlier decisions, including the one in **P.Paul Sam Asir** (cited *supra*) dated 12.01.2024, as of now, the position is settled, where this kind of claim to seek appointment to the post of Teacher without the TET qualification cannot be acceded to and therefore, the view taken by the learned Judge through the impugned order might be erroneous.



W.A.No.241 of 2023

20. We are also of the view that the decision taken by the learned Judge, as revealed in the impugned order, might be an erroneous one because of the settled legal position, as has been discussed herein above, especially the latest decision in **P.Paul Sam Asir** (cited *supra*) dated 12.01.2024. Therefore, we are constrained to interfere with the decision taken by the Writ Court which is impugned herein. Resultantly, the following orders are passed in this writ appeal:

(i) That the impugned order passed by the Writ Court dated 05.12.2013 made in W.P.No.33030 of 2013 is set aside. As a sequel, the said writ petition is dismissed; and

(ii) It is made clear that if at all any ultimate decision comes from the Hon'ble Supreme Court in the pending Special Leave Petition as cited *supra* in S.L.P.(C) No.31042 of 2012, the parties shall abide by such legal pronouncement, to be made by the Hon'ble Apex Court.



W.A.No.241 of 2023

21. With these observations, the writ appeal is allowed.

However, there shall be no order as to costs.

(R.S.K., J.) (P.D.B., J)
01.08.2025

Speaking Order/Non-Speaking Order

Index:Yes/No

Internet:Yes/No

Neutral Citation:Yes/No

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To:

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W.A.No.241 of 2023

R. SURESH KUMAR, J.
AND
P. DHANABAL, J.

(drm)

W.A.No.241 of 2023

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