



WP(MD)Nos.24103 & 24104 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON 06.10.2025	PRONOUNCED ON 24.11.2025
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CORAM:

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**

W.P.(MD)Nos.24103 & 24104 of 2025 &
W.M.P.Nos.18912 & 18913 of 2025

T.Muthulakshmi ... Petitioner in W.P.(MD).No.24103/2025

K.Vasanthan ... Petitioner in W.P.(MD).No.24104/2025

/vs./

1.The District Educational Officer (Elementary),
O/o. The District Educational Office,
Sankarankovil,
Tirunelveli District.

2.The Block Educational Officer-I,
O/o. The Block Educational Office,
Vasudevanallur, Thenkasi District.

3.The Secretary,
Committee Nadar Primary School,
Vasudevanallur Block,
Sivagiri Post,
Thenkasi District.

... Respondents

PRAYER in W.P.(MD).No.24103 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to sanction yearly and incentive increment from the year 2016 for the



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petitioner without insisting upon Teacher Eligibility Test qualification in conformity with the proceedings of the 1st respondent in ந.க.எண்.2477/ஆ2/2011 நாள் 13.09.2012 and consequently to direct the respondent to disburse the said benefits along with other admissible monetary benefits within the period that may be stipulated by this Court.

PRAYER in W.P.(MD).No.24103 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to sanction yearly and incentive increment from the year 2016 for the petitioner without insisting upon Teacher Eligibility Test qualification in conformity with the proceedings of the 1st respondent in ந.க.எண்.7693/ஆ2/2011 நாள் 13.09.2012 and consequently to direct the respondent to disburse the said benefits along with other admissible monetary benefits within the period that may be stipulated by this Court.

For Petitioner : M/s.Ajmal Associates for
Mr.H.Mohammad Imran

For Respondents : Mr.N.Satheesh Kumar AGP

ORDER

This Writ Petition had been filed to direct the respondents to sanction yearly and incentive increment from the year 2016 for the petitioner without insisting upon Teacher Eligibility Test qualification in conformity with the proceedings of the 1st respondent in ந.க.எண்.2477/ஆ2/2011 & ந.க.எண்.



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7693/ஆ2/2011, நாள் 13.09.2012 and consequently to direct the respondent to disburse the said benefits along with other admissible monetary benefits within the period that may be stipulated by this Court.

2. Heard Mr.H.Mohammad Imran learned counsel appearing for the petitioner, Mr.N.Satheesh Kumar, learned Additional Government Pleader appearing for the respondents.

3. The learned counsel appearing for the petitioners would submit that the petitioner in W.P.(MD).No.24103 of 2025 was initially appointed as a Secondary Grade Teacher on 28.02.2011 in the third respondent school which was also duly approved by the first respondent as early as on 13.09.2012 and the petitioner in W.P.(MD).No.24104 of 2025 was initially appointed as a Secondary Grade Teacher on 25.04.2011 in the third respondent school, which was duly approved by the first respondent as early as on 13.09.2012.

4. The learned counsel would further submit that under Government Order in G.O.Ms.No.181, dated 15.11.2011, qualification of TET was mandated for appointment of the Secondary Grade Teacher. The insisting of a TET



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qualification, the petitioners had been denied the yearly increments as also the incentive increments and the benefits are being unnecessarily withheld. Relying upon a Division Bench judgment of this Court in W.A.(MD).No.313 of 2022 etc., dated 02.06.2023, he would contend that the increments cannot be denied on the ground that a Teacher does not possess TET. Hence, he approached this Court seeking for appropriate direction.

5. The learned Additional Government Pleader would submit that even though the petitioners have been appointed prior to the issuance of the Government Order, they are required to qualify themselves with TET, within a period of five years from the date of their appointment. If they have not acquired the said qualification within the said period of five years, they are not entitled for any increment including the incentive increments. He would further submit that the petitioners working under the non-minority institution, are required to qualify themselves with TET, as they had not acquired the minimum qualification of pass in TET and in the light of Section 23 of the RTI Act, the petitioners are not entitled for the increments as claimed by them. Hence, he prays this Court to dismiss the Writ Petition.



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6. I have considered the submissions made by the learned counsel appearing on either side and perused the materials placed on record.

7. The petitioners have been appointed on 28.02.2011 & 25.04.2011 respectively. The Right of children to Free and Compulsory Education Act, 2009, had come into force and published in the gazette on 19.02.2010 indicating that it shall come into force w.e.f., 01.04.2010. Section 23(1) envisages that only persons possessing the minimum qualification as laid down by the academic authority authorised by the Central Government by its notification alone would be eligible for appointment as a Teacher. For better appreciation the relevant provision is extracted hereunder:-

23. Qualifications for appointment and terms and conditions of service of teachers.—(1) Any person possessing such minimum qualifications, as laid down by an academic authority, authorised by the Central Government, by notification, shall be eligible for appointment as a teacher

8. On 23.08.2010, the National Council for Teacher Education, which was the authorised authority, had issued minimum qualification for the appointment of a teacher which had prescribed minimum qualifications for appointment of teachers, apart from possessing of Teachers Eligibility Test. Paragraph 4 of the



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said notification exempted teachers appointed prior to the said date from acquiring the minimum qualification in paragraph 1 of the said notification. The said paragraph 1 of the said notification stood further amended by a further notification, dated 29.07.2011.

9. The issue had been deliberated by a Division Bench of this Court in a batch of cases in W.A.(MD).Nos.313 of 2022 etc and by judgment dated 02.06.2023, had held that any teacher who was appointed as a Secondary Grade Teacher/B.T. Assistant prior to 29.07.2011 shall be continued in service with necessary increments including the incentive increment, even if they do not possess TET and only for future promotion, they would be required to possess TET. In coming to the said conclusion, the Hon'ble Division Bench had given the following reasonings:-

50. Section 23 of the Act would make it clear that the intention of the Legislature to prescribe minimum qualifications for teachers was made while being alive to the fact that there may be certain States which do not have adequate institutions offering courses or training in teacher education, or where teachers possessing minimum qualifications are not available in sufficient numbers. It is in this context that the Proviso to Section 23(2) states that a teacher who, at the commencement of this Act (understood to mean those appointed after the commencement of the Act), does not possess minimum



qualifications as laid down under sub section (1), shall acquire such minimum qualification from five years. The legislature therefore has made it mandatory for every teacher who at the time of commencement of the Act does not possess minimum qualifications as prescribed under the Act, to acquire the said minimum qualifications within a period of 5 years. The emphasis is on the words “at the commencement of this Act” and hence, it needs to be examined whether the legislature intended to apply the new qualifications to teachers who are already in service at the commencement of the Act, or only to those to be appointed after the commencement of the Act. Pursuant to the provisions of the Act, the National Council Teacher Education (NCTE) issued a notification dated 23.08.2010 prescribing the minimum qualifications for teachers from Classes I to V- ‘Secondary Grade Teachers’ as well as for Classes VI to VIII- ‘BT Assistant’. Apart from prescribing the minimum educational qualifications, the important eligibility criteria added by way of the notification is – “Pass in Teacher Eligibility Test (TET)”. This notification stated under paragraph 4 that teachers appointed prior to the date of this notification need not acquire the minimum qualification prescribed by the notifications. Under para 5 it has been stated that those teachers appointed after date of this notification but in whose case the process of appointment was initiated prior to the date of this notification would also be exempt from acquiring the minimum qualifications including Teacher Eligibility Test (TET) as prescribed under Para 1 of the notification. The said Para 5 of the notification dated 23.08.2010 came to be amended by the notification of the NCTE dated 29.07.2011 whereby Para 5 was substituted by Para 5(a) with the same provision while shifting the cut off date from



23.08.2010 to 29.07.2011, meaning thereby that where the Government, Local Authority or School issued the advertisement to initiate the process of appointment prior to the date of this notification i.e., 29.07.2011 such appointments may also be made in accordance with the NCTE Regulations 2001 i.e., exempting them from acquiring TET for appointment as the teacher.

51. At this juncture, we may refer to some of the legal principles relating to the issue involved herein, qua the nature of employment under the Government and interpretation of provisions in a manner as to cause least hardship to existing employees, the rule against retrospectivity, and in this context, whether the possession of TET is mandatory for those, who were already appointed as secondary grade teachers prior to the notification, dated 29.07.2011 for continuance in service and getting annual increment, incentive, etc. They are as follows:

Employment by State and its instrumentalities as a right under Article 16

10. After giving the aforesaid reasoning, the Hon'ble Division Bench had also issued the following directions:-

74. For the sake of clarity and ease of reference, the upshot of the above discussion is as under:

(a) Any teacher appointed as Secondary Grade Teacher or Graduate Teacher/BT Assistant prior to 29.07.2011 shall continue in service and also receive increments and incentives, even if they do not possess/acquire a pass in TET. At the same time, for future promotional



prospects like promotion from secondary grade teacher to B.T. Assistant as well as for promotion to Headmasters, etc., irrespective of their dates of original appointment, they must necessarily possess TET, failing which they will not be eligible for promotion.

(b) Any appointment made to the post of Secondary Grade Teacher after 29.07.2011 must necessarily possess TET.

(c) Any appointment made to Graduate Teacher/BT Assistant, after 29.07.2011, whether by direct recruitment or promotion from the post of Secondary Grade Teacher, or transfer, must necessarily possess TET.

(d) The Special Rules for the Tamil Nadu School Educational Subordinate Service issued in GO (Ms.) No.13 School Education (S.E3(1)) Department dated 30.01.2020 insofar as it prescribes “a pass in Teacher Eligibility Test (TET)” only for direct recruitment for the post of BT Assistant and not for promotion thereto in Annexure-I (referred to in Rule 6) is struck down, thereby meaning that TET is mandatory/essential eligibility criterion for appointment to the post of BT Assistant even by promotion from Secondary Grade Teachers.

(e) The language employed in G.O. (Ms) No. 181 dated 15.11.2011 is to be read and understood to the effect that for continuance in service without promotional prospects, TET is not mandatory.

11. The Division Bench specifically in paragraph 74 in clauses (a), had held that the Teachers appointed prior to 29.07.2011, would be entitled to receive the increments and incentives, even if they do not possess TET. In the present case,



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the petitioners were appointed before the cut off date as fixed by the Hon'ble Division Bench and they are entitled for increments and incentive increments as held, but however they would not be entitled for promotion without TET as held by the Division Bench.

12. For the aforesaid reasons, these Writ Petitions stand allowed and the respondents are directed to sanction the yearly increments and also the incentive increments without insisting upon the TET qualification and disburse the same to the petitioners, within a period of twelve (12) weeks from the date of receipt of a copy of this order. However, it is made clear that the petitioners would not be entitled for any promotion to arrive in future without qualifying themselves with TET. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

24.11.2025

Index : Yes / No
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K.KUMARESH BABU, J.

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Pre-Delivery Order made in
W.P.(MD)Nos.24103 & 24104 of 2025 &
W.M.P.Nos.18912 & 18913 of 2025

24.11.2025