

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2015

CORAM:

THE HONOURABLE MR. JUSTICE D. HARI PARANTHAMAN

W.P.No.12411 of 2015

M.P.No.1 of 2015

Dr.C.Roumana

... Petitioner

v.

1. The Secretary,
Government of Tamil Nadu,
Higher Education Department,
Fort St. George, Chennai-9.
2. The Member Secretary,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maligai,
DPI Compound, Chennai-6.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 2nd respondent to include the petitioner's name in the final list of the selected candidates for the post of Assistant Professor - Physics, under B.C.(M) category and consequently, issue the appointment order thereof to the petitioner.

For Petitioner

Mr.B.Ravi

:

For Respondents

Mr.S.Gunasekaran,

:

Government Advocate

O R D E R

The petitioner possessed M.Sc., and M.Phil degrees in Physics. Thereafter, she also obtained Ph.D., in the same subject. She belongs to Backward Class (Muslim). She applied for the post of Assistant Professor in Physics, pursuant to the advertisement, dated 28.05.2013, issued by the 2nd respondent. She was called for

certificate verification on 26.11.2013 and thereafter, interviewed on 27.08.2014. The 2nd respondent has published the provisional mark list of all the candidates, after interview and the petitioner obtained 21 marks and is ranked four in the mark list, under Backward Class (Muslim) Women Category.

2. Under the roster, three posts were allotted to Backward Class (Muslim) Women Category. As against the three posts, Mrs.Ali Fathimaa, Mrs.Begum Elavarasi and Mrs.Sharmila Begum, who have secured 29, 24 and 23 marks respectively were placed above the petitioner in the rank and have been provisionally selected. Out of these three selected candidates, Mrs.Begum Elavarasi, has sent a letter, dated 20.03.2015, declining the offer, stating that she has already joined Anna University as Assistant Professor (Physics), on 17.03.2015. Copy of the letter sent by the said Begum Elavarasi, is enclosed in the typed set of papers.

3. In these circumstances, the petitioner has filed this writ petition, seeking for a direction to the 2nd respondent, to include her name in the final list of the selected candidates for the post of Assistant Professor - Physics, under Backward Class (Muslim) Women Category and consequently, issue the appointment order to her.

4. A counter affidavit is filed by the 2nd respondent, admitting the aforesaid facts. However, it is stated that once the particular roster point has been filled up and a candidate has been selected, that roster point would get exhausted and therefore, non-joining of Mrs.Begum Elavarasi, would not result in inclusion of the petitioner in the selection list.

Heard the learned counsel for the parties and perused the materials available on record.

5. The aforesaid facts make it clear that Mrs.Begum Elavarasi refused to join the post and declined the offer for selection to the post of Assistant Professor (Physics), stating that she has already joined Anna University as Assistant Professor (Physics), on 17.03.2015. It is a different matter, if she joined the post and the same became vacant, since she left the service thereafter. In the provisional selection list, three persons, who have secured more marks than the petitioner, were selected. As stated above, one among them, has not joined the post and declined the offer of appointment. Hence, the next candidate, who have secured highest mark in the Selection list, has to be given appointment. It is not the case of the respondent that someone else has secured higher mark in the Backward Class (Muslim) Women Category, than the petitioner.

6. It is admitted that the petitioner has secured the highest mark, next to the selected candidates and she ranked four in the Backward Class (Muslim) Women Category. Since one among the persons, selected for appointment, declined to join the post, the petitioner shall be included in the selection list and hence, I have no hesitation to allow this writ petition and give a direction, as sought for.

7. Hence, the Writ Petition is allowed. The 2nd respondent is directed to include the name of the petitioner in the selection list and consequently, issue the appointment order to her, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

skm

To

1. The Secretary,
Government of Tamil Nadu,
Higher Education Department,
Fort St. George, Chennai-9.

2. The Member Secretary,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maligai,
DPI Compound, Chennai-6.

+1cc to Mr.R. Subramanian, Advocate, S.R.No.28652

+1cc to the Government Pleader, S.R.No.28603

msm(CO)
EU(25/06/2015)

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