

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Appeal No.550 of 2014
& M.P.No.1 of 2014

V.Saradha

...Appellant/Petitioner

Vs.

1. The Chairman
Teachers Recruitment Board
DPI Complex, College Road, Chennai 600 006

2. The Director
School Education, DPI Complex
College Road, Chennai 600 006 ...Respondents/Respondents

Writ Appeal filed against the order dated 28.2.2014 made in W.P.No.27976 of 2012 filed under Article 226 of the Constitution of India praying to issue writ of mandamus, directing the Respondents select and appoint the petitioner as B.T.Assistant (History) (Telugu Medium) under S.C.(Arunthathiyar) (General) category and confer all the consequential benefits from the date on which the petitioner's tumors came to be appointed in the Recruitment year 2010-2011.

For Appellant : Mrs.Dahshayani Reddy

For respondents : Mr.K.Karthikeyan,
Government Advocate

JUDGMENT

(Judgment of the Court was made by HULUVADI G. RAMESH, J.)

Heard the learned counsel for the appellant and the learned Government Advocate for the respondents.

2. As against the order of the learned Single Judge, in dismissing the Writ Petition filed by the appellant herein praying for selection and appointment as B.T.Assistant (History) (Telugu Medium) under S.C.(Arunthathiyar) (General) category and

confer all consequential benefits from the date on which her junior came to be appointed in the recruitment year 2010-2011, the appellant-V.Saradha, has filed the present Writ Appeal.

3. The reasons stated by the learned Single Judge for the dismissal of the Writ Petition are that the appellant herein has not passed TET examination and neither the Commissioner of Employment and Training nor the employment exchange has sponsored the writ petitioner's name under SC (Arunthathiyar) category.

4. The learned counsel for the appellant submits that the appellant was selected for interview only when she was sponsored through employment exchange under the Scheduled Caste (Arunthathiar) category and the same is apparent from the result which is published by the first respondent. She further submits that the respondent had stated before the writ proceedings initially that the writ petitioner/appellant, was sponsored in the Scheduled Caste (Arunthathiar) general category, but, subsequently has taken a stand in the additional counter that the petitioner was only sponsored under the Scheduled Caste General Category. The learned counsel also contended that the stand of the respondent is against the proceedings and the result published, wherein the appellant was shown against the recruitment for Graduate Assistant through employment exchange seniority for the year 2007-2010 and the turn as Scheduled Caste (Arunthathiar) category.

5. The learned counsel for the appellant relied on G.O.(Ms). No.61, Adi Dravidar and Tribal Welfare (TD2) Department, dated 29.05.2009, in support of her contentions and submitted that as per the G.O., Arunthathiyars are to be given allotment on preferential basis.

6. The first respondent filed Additional counter affidavit before this court, wherein, it is stated that one post is earmarked for Scheduled Caste Arunthathiyar (G) category and could not be filled, due to non-availability of candidates and in the year 2010-2011, there were 5 vacancies in History (Telugu medium) and the SC(General) Priority available seat was 1. The learned Government Advocate argued that since no candidate was sponsored under SC (Arunthathiyar) category by the employment exchange, the Board marked in the selection list as SC (A) candidate "not available".

7. The G.O.(Ms).No.61 Adi Dravidar and Tribal Welfare (TD2) Department, dated 29.05.2009 reads as follows:-

"In exercise of the powers conferred by
section 13 of the Tamil Nadu Arunthathiyars

(Special Reservation of seats in Educational Institutions including Private Educational Institutions and of appointments or posts in the Services under the State within the Reservation for the Scheduled Castes) Act, 2009 (Tamil Nadu Act 4 of 2009), the Governor of Tamil Nadu hereby makes the following amendment to the Tamil Nadu Arunthathiyars (Special Reservation of seats in Educational Institutions including Private Educational Institutions and of appointments or posts in the services under the State within the Reservation for the Scheduled Castes) Rules, 2009:-

AMENDMENT

In the said Rules, in rule 3 of the illustration for the expression "The seats to Arunthathiyars shall be offered in the rotation 2, 32 and 66", the following expression shall be substituted, namely:-

"The seats to be allotted to Arunthathiyars on preferential basis shall be offered in the horizontal rotation such as 2, 32 and 66. The preferential seats is filled up, it does not mean that the other qualified Arunthathiyars shall not compete with the rest of the Scheduled Castes members on inter-se merit basis; vice versa, if no qualified Arunthathiyars are available to fill up the preferential seats, it does not mean that the vacancies so arising shall not be filled up by the Scheduled Castes members on merit basis."

8. We have gone through the averments made in the Writ Appeal, counter affidavit filed by the respondent and G.O.Ms.No.61 dated 29.05.2009, produced before this court.

9. By virtue of the amendment, the other qualified Arunthathiyars, shall compete with the rest of the Scheduled Caste members on inter-se merit basis. Therefore, the appellant, who was sponsored as early for the year 2007-2010 to fill up the post for the said recruitment year and thereafter, again sponsored for the year 2010-2011, could not be rejected solely on the reason that she was sponsored only under the SC Woman Communal Turn and not sponsored under the SC (Arunthathiyar). Since, the appellant belongs to SC(Arunthathiyar), as per G.O. (Ms).No.61, Adi Dravidar and Tribal Welfare (TD2) Department, dated 29.05.2009, she is entitled to be considered for the vacancy allotted to Arunthathiyars on preferential basis and if the preferential seats filled up, the other Arunthathiyars shall compete with the rest of the Scheduled Caste members on

inter-se merit basis.

10. Based on the foregoing discussions, we are inclined to quash the order of the learned Single Judge. Accordingly, the order dated 28.02.2014 passed in W.P.No.27976 of 2012 is quashed. The Writ Appeal is allowed. The respondents are directed to extend the benefit of G.O.Ms.No.61, Adi Dravidar and Tribal Welfare (TD2) Department dated 29.05.2009 to the appellant and appoint her in the vacancy available as there is no bar to fill up the vacancy available by the candidate, who was already sponsored through employment exchange under the category Scheduled Caste members on seniority basis, whether, it be SC (General) or SC Woman Communal Turn or SC (Arundhadhiyars). The respondents are directed to carry out the above said exercise within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, connected MP is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

nvsri

To

1. The Chairman
Teachers Recruitment Board
DPI Complex College Road
Chennai 600 006

2. The Director
School Education
DPI Complex College Road
Chennai 600 006

1 cc to Mrs.Dakshayani Reddy, Advocate, sr.37064

W.A.No.550 of 2014

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