

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

WP.No.6412 of 2013
MP.No.1of 2013

T.N.Russel Raj

... Petitioner

Vs

- 1.The Chairman, Teachers Recruitment Board
EVK Sampath Maligai, College Road,
Chennai-6
- 2.The Director of School Education,College Road,
Chennai-6
- 3.The Assistant Director, Professional and Executive
Employment Officer, Santhome High Road,
Chennai-28.

... Respondents

Prayer:- This Writ Petition is filed to issue a Writ of Mandamus to direct the Respondents 1 and 2 to consider and appoint the Petitioner in the post of Post Graduate Assistant (Tamil) on par with his educational qualification and after adding 106 marks scored in the written examination with 4 marks under weightage marks category as per clause 16 of the prospectus issued by the 1st Respondent by considering the representation of the Petitioner dated 15.12.2012.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.A.Kumar, SGP

ORDER

In this Writ Petition, the Petitioner seeks for a direction to the Respondents 1 and 2 to appoint the Petitioner in the post of Post Graduate Assistant (Tamil) on par with his educational qualification, after adding 4 marks under the weightage marks category to 106 marks scored in the written examination, as per clause 16 of the prospectus issued by the 1st Respondent.

2. According to the Petitioner, he had applied to the post of PG Assistant (Tamil) and attended the written examination on 27.5.2012 and scored 106 out of 150 marks. Thereafter, he was called for certificate verification on 30.10.2012 and the Petitioner also produced the same. As per the clause 16 of the prospectus, which contemplates 4 marks for the candidates who have 10 years and above wait period from the date of registration in the employment exchange, he is entitled to get 4 marks under the weightage marks category in addition to 106 marks scored in the written examination and accordingly, he ought to have been given 110 marks totally. But, instead of 4 marks, the Petitioner was awarded only 2 marks under the weightage marks category. Therefore, in the first selection list, his marks were stated as only 108 marks. Soon after the said mistake was pointed out, the Petitioner also made a representation dated 15.12.2012, which was acknowledged on 22.12.2012. Even thereafter, a new selection list was published on 19.1.2013, whereby the Petitioner came to know that the candidates, who are junior to the Petitioner, under the BC category, who secured 110 marks, have been selected. In this connection, he would also point out that in respect of the two persons, namely, R.Eswari and D.Benzila, they have obtained 110 marks and they have been appointed purely due to the mistake committed by the 1st Respondent. Therefore, he has filed the Writ Petition.

3. The learned Special Government Pleader for the Respondents, by filing a counter affidavit, would contend that the cut off marks for the BC candidates was 110 marks, whereas the Petitioner has got only 108 marks. In this connection, he also produced the original copy of the certificate verification form, in which, though the Petitioner has stated that he had registered in the employment exchange with effect from 6.11.1998 and the total number of years as 3 years and 4 months, but in the weightage marks column, he himself has written only as 2 and therefore, taking into the consideration the same, he was awarded a total marks of 108 and it is not a mistake on their part and accordingly, he was deemed to be not selected. Because large number of applicants participated, the concerned persons themselves were allowed to fill up the certificate verification forms including the relevant marks as per the experience and as per the prospectus. When the mistake was done by the Petitioner himself, they cannot be held responsible for the same and therefore, he would contend that even if he might have got 4 marks, since he has stated only 2 marks, only 2 marks was added.

4. This court heard the learned counsel on either side and considered their submissions and also perused the materials placed on record.

5. Even when the Writ Petition was filed, this court granted an interim order that any appointment made will be subject to the result of the Writ Petition. In this connection, as rightly pointed out by both the parties, the Petitioner has got 106 marks in the written examination, which is not in dispute. Similarly, the Petitioner has been waiting in the employment exchange for 13 years and 4 months. As per the prospectus, a person waiting for 10 years and above is entitled to get 4 marks under the weightage marks category. Though in the certificate verification form, he has rightly incorporated the date of registration with the employment exchange as 6.11.1998, but unfortunately, the Petitioner himself has written the same as 2. If the said date of registration is taken into account, definitely he would have been given 4 marks or if it was verified by the considered authority, he would have been given 4 marks.

6. But, for a mistake committed by the Petitioner in filling up the form, which normally should have been filled up by the Department only, whether that mistake can be put on against the Petitioner. If 4 marks have been allotted, he would have been given 110 marks and accordingly, he would have been given employment at least in the second selection list. Unfortunately, the Petitioner himself has given incorrect details. However, since already candidates have been appointed and they have also taken charge and their seniority also should not be affected, in order to safeguard both the Petitioner as well as the Department, this court directed the Petitioner to file an affidavit with certain conditions. Accordingly, the Petitioner has filed an affidavit dated 15.07.2016, stating as follows:-

"3. I submit that I am willing to accept the appointment from the date of the order to be passed by this Hon'ble Court. I will not claim any benefit retrospectively or promotion from the selection list dated 19.1.2013 in the event of considering my name for appointment to the post of Post Graduate Assistant (Tamil) after adding 4 marks under the weightage category.

I pray this Hon'ble court to record the above undertaking and issue direction to the Respondents 1 and 2 to appoint me in the post of Post Graduate Assistant (Tamil) from the date of the order to be passed by this Hon'ble Court in the above WP.No.6412 of 2013 and thus render justice. "

7. Merely because there is mistake crept in while filling up the form, that should not hamper the very life of a person. But for the said mistake, he has paid the penalty by

following it up for three years from the date of filing of the Writ Petition. When the Writ Petition was admitted, there was also an interim order that any appointment made will be subject to the result of the writ petition. In that view of the matter, the claim of the Petitioner will be considered for the post of ***Post Graduate Assistant (Tamil)** only for the current period and such an exercise shall be done within a period of two months from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected MP is closed.

Sd/-
Assistant Registrar(CS II)

*Corrected as per order
already despatched on
08/09/2016
-s/d-
Assistant Registrar(CSIV)
dated 03/11/2016

//True Copy//

Sub Assistant Registrar

To:

- 1.The Chairman, (To be Substituted to the order
Teachers Recruitment Board (already despatched on 08/09/2016)
EVK Sampath Maligai, College Road, Chennai-6
- 2.The Director of School Education, College Road,
Chennai-6.
- 3.The Assistant Director, Professional and Executive
Employment Officer, Santhome High Road,
Chennai-28

+1cc to Mr.N.Manokaran, Advocate Sr*.61893

WP.No.6412 of 2013

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srg 08/09/2016
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