

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2017

C O R A M

THE HON'BLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.13431 of 2017
and WMP.Nos.14480 & 14481 of 2017

Jayapradha. E

... Petitioner

Versus

1. Government of Tamil Nadu,
Rep.by Secretary to Government,
School Education Department,
Secretariat, Chennai - 600 009.

2. Teachers Recruitment Board,
4th Floor, EVK Sampathmaaligai,
DPI Compound, College Road,
Chennai - 600 006.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of writ of certiorarified mandamus, to call for the records in R.C.No.923/L2/2017 dated 05.05.2017 passed by the second respondent and quash the same and consequently direct the second respondent to appoint the petitioner as Post graduate Assistant in Bio Chemistry as notified in the advertisement No.2/2013, dated 09.05.2013.

For Petitioner

... Mr.Nithyaesh Natraj for
M/s.Nithyaesh and Vaibhav

For Respondents

... Mr.K.Dhanajeyam
Special Government Pleader

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ORDER

The writ petition is filed for issuance of writ of certiorarified mandamus, to call for the records in R.C.No.923/L2/2017 dated 05.05.2017 passed by the second respondent and quash the same and consequently direct the second respondent to appoint the petitioner as Post graduate Assistant in Bio Chemistry as notified in the advertisement No.2/2013, dated 09.05.2013.

2. The sole question to be decided in this writ petition is as to, whether the writ petitioner acquired any rights for appointment to the post of Post Graduate Assistant under the Tamil Nadu Higher Secondary Educational Service.

3. The learned counsel for the petitioner contended that the writ petitioner is a meritorious candidate, having completed B.Sc., (Bio Chemistry) and M.Sc., (Bio Chemistry) and further completed B.Ed., from Tamil Nadu Teachers Educational Society. Accordingly, the writ petitioner is fully qualified to hold the post of Post Graduate Assistant in the Tamil Nadu Higher Secondary Educational Services. Pursuant to the advertisement No.2/20 dated 09.05.2013 for recruitment to 16 posts of Post Graduate Assistant/ Physical Education Director Grade-I, more specifically for the subject of Bio Chemistry, the writ petitioner wrote the examination and secured 99 marks. But her name was not shown in the selected list. However, one Mr.V.Thailappan, who was placed above the petitioner was also not selected. It is informed that the said Mr.V.Thailappan filed a writ petition before this Court, challenging his non appointment to the post of Post Graduate Assistant on the ground that the studying of same subject both in the degree and in the master degree is not necessary, as per the rules. But the writ petition was subsequently withdrawn. The writ petitioner was a party to the writ petition. Subsequently, after the withdrawal of the writ petition, the writ petitioner claims that she is entitled for appointment to the post of Post Graduate Assistant in the place of Mr.V.Thailappan.

4. The learned counsel for the petitioner emphasised that when the selected candidate was not allowed to join and one post was kept vacant, the second respondent, ought to have accommodated the writ petitioner in the said place. Contrarily the respondents proceeded with the next recruitment and denied the appointment to the writ petitioner. Earlier the writ petition filed by the writ petitioner in W.P.623/17 ended with the order of direction on 10.01.2017, as extracted below.

" Though the petitioner has prayed for a larger relief, this Court, in the light of the facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the second respondent to consider and dispose of the petitioner's representation dated 09.10.2016 on merits and in accordance with law and pass orders within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner.

The writ petition stands disposed of with the above direction. No costs".

5. Pursuant to the above order of this Court, the respondents issued the order, which is impugned in this writ petition on 05.05.2017. The reason stipulated in the order impugned is that the Board finalised the recruitment process of Post Graduate Assistants for the year 2012-2013 on 10.08.2014 itself and all the vacancies notified had been filled up and also the Board has completed the subsequent recruitment process viz, for the year 2013-14 and 2014-2015 and all the vacancies including back log vacancies were filled up. Accordingly, the claim of the writ petitioner is rejected.

6. Now this Court has to consider the right of the petitioner for appointment to the post of Post Graduate Assistant. Undoubtedly, this Court is of the clear opinion that appointment cannot be claimed as a matter of right, as the writ petitioner was not selected to the post pursuant to the notification issued on 09.05.2013. No doubt, the writ petitioner passed/appeared, but not appointed on account of want of vacancy at that point of time. The person placed above to the writ petitioner Mr. Thaillappan, though was selected was not appointed on account of his ineligibility. This will not provide any ground for the writ petitioner to seek appointment after the completion of two subsequent recruitment processes. Once the next recruitment process commenced for the earmarked vacancies, the earlier selection list will become lapsed automatically. It is left open for the petitioner to pursue her chance in the next selection. This apart, mere passing/appearance will not confer any right on the candidate to claim appointment as a matter of right. In other words, selection is only a process and till an order of appointment is issued by the appointing authority, the candidate cannot claim any right over the same. Such being the legal proposition and considering the fact that the recruitment relating to the writ petitioner was pursuant to the notification dated 09.05.2013 and the subsequent recruitment processes were undertaken and completed long back, this Court is not inclined to consider the claim of the writ petitioner for appointment based on the earlier selection process. Hence the writ petition is devoid of merits and accordingly stands dismissed. No costs. Consequently miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar

dpq

To

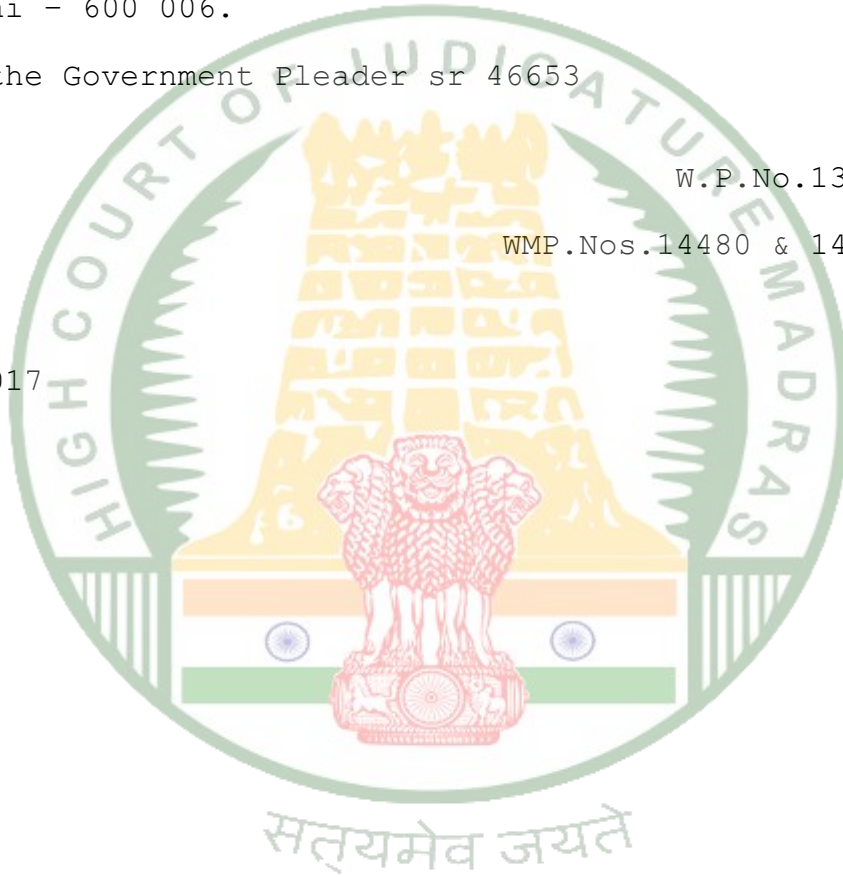
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+1 cc to the Government Pleader sr 46653

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