

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.No.13278 of 2012

and

M.P.No.2 of 2012

M.Karpagam

.. Petitioner

vs

1. The Chairman
Teacher's Recruitment Board
EVK Sampath Maaligai
College Road, Chennai - 6.
 2. The Director
Directorate of Government Examinations
Chennai - 6.
 3. The Director
Directorate of School Education
Chennai - 6.
 4. The Employment Officer
District Employment Office
Cuddalore.
 5. The Employment Officer
Department of School Education
Government of Tamil Nadu
Fort St. George
Chennai - 9.
- .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for records of the first respondent in his proceedings dated 4.4.2012 published in website <http://trb.tn.nic/PG> 2011 and quash the same and direct the respondents to consider the petitioners appointment to the post of Graduate Assistants (Commerce) for Government Higher Secondary Schools, 2010-2011 through the Employment Registration Seniority vide Registration No.U/6216/93 (TRB Roll No.11PG11240032) for which the petitioner is eligible without insisting for production of SSLC mark sheet (Reg.No.179362).

For Petitioner : Mr.R.S.Krishnaswamy

For Respondents : Mrs.M.E.Raniselvam

Addl. Government Pleader

ORDER

The petitioner has filed this writ petition seeking issuance of writ of certiorarified mandamus to call for records of the first respondent in his proceedings dated 04.04.2012 published in website [http://trb.tn.nic/PG 2011](http://trb.tn.nic/PG%202011), to quash the same and to direct the respondents to consider the petitioner's appointment to the post of Graduate Assistant (Commerce) for Government Higher Secondary Schools, 2010-2011 through the Employment Registration Seniority vide Registration No.U/6216/93 (TRB Roll No.11PG11240032) for which the petitioner is eligible without insisting for production of SSLC mark sheet (Reg.No.179362).

2. The facts in a nutshell are as under: According to the petitioner, she hails from a remote village and completed her studies in the pattern of Tenth standard + Twelfth standard + Degree + Post Graduate degree. Thereafter, she pursued further studies and completed M.Phil. and also secured B.Ed. Degree. She also registered her qualifications with the District Employment Office, Cuddalore, fourth respondent herein, for appointment to the post of Post Graduate Assistant.

3. It is stated that the fourth respondent employment exchange sponsored the name of the petitioner to the first respondent declaring that she is fully qualified. Based on such sponsorship, the first respondent/Board sent call letter to the petitioner on 03.03.2010 calling for certificate verification on 12.03.2010. It is averred that, only at this juncture, while arranging the certificates for verification that the petitioner noticed that her SSLC original mark sheet was missing. As it was not traceable despite strenuous efforts, the petitioner gave a police complaint, which also turned out to be a futile exercise.

4. It is further stated that the Government Nandanam Higher Secondary School for Girls at Chidambaram issued a Secondary School Cumulative Record maintained and issued under the authority of Government of Tamil Nadu certifying that the petitioner was a regular student of their school and appeared for SSLC Examination in March, 1980. As the school was not having the old records of mark sheets, the petitioner is stated to have not obtained SSLC mark sheet copy.

5. It is pleaded that the petitioner attended the

certificate verification and produced all originals of her mark sheets, except relating to SSLC, with regard to which, she furnished the letter issued by the Headmistress declaring that the petitioner was a bona fide student. However, the name of the petitioner did not find place in the results declared by the first respondent.

6. In such circumstances, the petitioner has filed this writ petition for the relief stated supra.

7. It is the contention of the learned counsel for the petitioner that the Tenth standard original mark sheet is required only for verification of the date of birth and to ensure that a candidate has done his/her schooling in regular stream and when the employment exchange authorities have after thorough verification registered her qualifications and sponsored her candidature as fully qualified, the act of the first respondent in rejecting the case of the petitioner is unreasonable and untenable.

8. Per contra, the learned Additional Government Pleader appearing on behalf of the respondents submits that inasmuch as the petitioner failed to produce her Tenth standard mark sheet, her candidature was not considered by the first respondent and such act of the first respondent does not warrant interference of this Court.

9. I heard Mr.R.S.Krishnaswamy, learned counsel for the petitioner and Mrs.M.E.Raniselvam, learned Additional Government Pleader for the respondents and perused the documents available on record.

10. In the case on hand, the facts are not much in dispute. The entire controversy revolves around the non-furnishing of the Tenth Standard Mark Sheet by the petitioner at the time of appearing for certificate verification.

11. It is not in dispute that the Employment Exchange authorities register a qualification only after thorough verification of the original mark sheets in respect of each and every qualification possessed by a candidate. In the case on hand, the petitioner has registered all her qualifications starting from SSLC to M.Phil., and B.Ed. and the authorities of the Employment Exchange sponsored the name of the petitioner as fully qualified for appointment to the post called for by the first respondent. That apart, it is not the case of the first respondent/Board that the petitioner has not produced certificates in respect of all other qualifications.

12. Admittedly, the petitioner has produced all original

certificates, barring the Tenth standard certificate and in respect of the same, the petitioner has produced a bona fide certificate issued by the Headmistress of the concerned school. As is seen from the records, the petitioner has put in strenuous efforts to obtain a duplicate copy of the Tenth standard certificate - she lodged a police complaint, she applied for a duplicate and in view of the non-availability of the records in the school concerned, she could not produce even a duplicate copy of the tenth mark sheet. In my considered opinion, on this sole ground, the petitioner should not have been deprived of an opportunity to be appointed to a coveted post.

13. Under identical circumstances, though in respect of PUC qualification, this Court in *S.Sivasubramanian v The Principal Secretary*, (2013) 3 MLJ 393, held as under:

"5. In the present case, due to the circumstances beyond the control of the petitioner, he was unable to produce the PUC certificate. But, when several interim orders were passed by this Court by the Principal Bench and Madurai Bench, the TRB issued a notice in their Website on 11.12.2012, stating that those persons who have filed writ petitions before the Court, the Board has decided, on humanitarian consideration to give another chance to the absentees and those who have not produced certificates in January 2013 and in these cases, there was a direction to keep one post vacant and also the Court indicated the circumstances under which certain candidates could not produce their original certificates. When the TRB itself has gave an opportunity to such of those persons, on the ground of humanitarian consideration, a further chance was given both for the persons, who are absentees as well as for the persons, who did not produce certificate. There is no reason why the petitioner's duplicate certificate obtained, on account of his original being lost, cannot be accepted by the TRB, that too, especially when the petitioner has produced his B.A., and M.A., degree original certificates, which could not have been done without PUC qualification.

6. Therefore, the circumstances pleaded by the petitioner clearly show that he was not in a position to produce PUC certificate and his subsequent attempt to get duplicate copy from the University has been materialized and the same has also been produced. Hence, the denial of the appointment to the petitioner is unjustified. Therefore, this writ petition stands allowed. The

second respondent/TRB is hereby directed to, include the petitioner's name in the selected list of candidates and consequently, send a communication to the School Department. This exercise shall be undertaken within a period of three weeks from the date of receipt of a copy of this order and on such receipt of information from the TRB, the Department shall give an appointment order to the petitioner within two weeks, thereafter. No costs. Consequently, the connected MPs are closed. However, a disquieting factor has also to be noted. The petitioner is already 54 years old and maximum, he will be in service only for four years. It is curious that the State Government and the TRB did not prescribe any upper age limit. The TRB has stated in the prospectus that the persons should not be over 57 years for sending the application, which only means a candidate, who is 57 years, will be given appointment for a period of one year. This is a serious matter, which the State Government must ponder over and also to prescribe an upper age limit for entering into service. This is especially, when such candidates are going to be posted as Teachers, teaching young children, the prescription of upper age limit is absolutely necessary and the Government should not treat it as one more employment for candidates."

14. The above proposition applies in all fours to the case on hand and the petitioner, in my considered opinion, is entitled to the relief as granted in the aforesaid decision.

15. That apart, in the instant case, as early as 05.06.2012, this Court granted an interim direction to keep one post of P.G. Assistant (Commerce) vacant until further orders and the said order was in fact extended until further orders and the respondent authorities have not taken any steps to vacate the said order till date.

16. For the foregoing reasons, the following order is passed:

(a) The writ petition is allowed;

(b) The respondents are directed to appoint the petitioner as P.G. Assistant (Commerce) in any Government Higher Secondary School under the respondent Education Department, without insisting on production of SSLC Mark Sheet (Registration No.179362); and

(c) The above said exercise shall be done by the respondent authorities within a period of four weeks from the date of receipt of a copy of this order.

(d) No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vs

To

1. The Chairman
Teacher's Recruitment Board
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College Road, Chennai - 6.
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Department of School Education
Government of Tamil Nadu
Fort St. George
Chennai - 9.

+2cc to Mr.R.S.Krishnaswamy, Advocate, S.R.No.84601

+1cc to the Government Pleader, S.R.No.78977

W.P.No.13278 of 2012
and M.P.No.2 of 2012

SR(CO)
RRK(11/04/2018)