



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.08.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P (MD) No.14497 of 2014

N.Jagadeeswari

... Petitioner

-vs-

1.The Secretary to Tamilnadu Government
Higher Education School Education Department,
Secretariat, Chennai

2.The Chairman
Tamilnadu Teachers Recruitment Board,
4th floor, EVK Sampath Maligai,
DPI Compound, College Road
Chennai.

3.The Director of School Education
DPI Compound, College Road,
Chennai.

... Respondents

Prayer: Writ Petitions filed under Article 226 of Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to appoint the petitioner in the post of Graduate Assistant, where the petitioner is eligible to get the same by getting 56.82% in the total weightage mark.

For Petitioner	:	Mr.N.R.Murugesan
For Respondents	:	Mr.D.Muruganandham for R1, 3 and 4 Addl. Government Pleader Mr.VR.Shanmuganathan for R2 Spl. Government Pleader

ORDER

The petitioner has obtained M.Sc., Botany, B.Ed., Botany and coming under backward class category. With this qualification, she has applied for the Teachers Eligibility Test Paper II in the year 2013 for the post of Graduate Assistant. As per the Eligibility Test, she has secured 85 marks in the examination. Since in the eligibility test, she has secured 52.86%, the 2nd respondent has declared that the petitioner was also eligible for the post of Graduate Assistant Botany. But the 2nd respondent failed to select the petitioner. This was brought to the notice



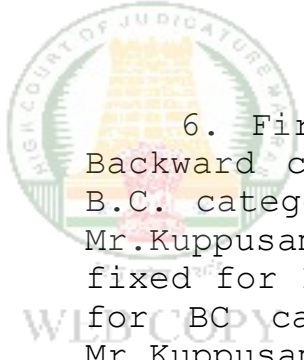
of the petitioner only when they released the provisional selection list on 10.08.2014. However, one Kuppusamy, who is also coming under BC category in Sl.No.167 Roll No.13TE52209642, was found selected with only 55.81% of total weightage marks. Therefore, the non selection of the petitioner, who has secured 56.82% marks, being arbitrary and illegal, a direction may be issued to the respondents to appoint the petitioner in the post of Graduate Assistant.

2. The learned counsel for the petitioner would further submit that when the objective test is not applicable to the earlier examination, the respondents cannot fix the marks to the higher level of centum. Since in the earlier cases also, they did not follow the new pattern. Moreover, a comparison of old test mark list for the period 80's and 90's cannot be equated with for the period, after 2000.

3. In any event, when the petitioner has succeeded in the SSLC examination, in March 1984, and higher secondary examination in the month of April 1986, Bachelor Degree on October 1989, and B.Ed., in March 1994 and Master Degree in October 2005, the selection of percentage of marks in the cadre of weightage itself is wrongly applied. In addition thereto, the petitioner was also serving as a Teacher in Tony's Nursery and Primary School from June 1998 to June 2001 and thereafter also she served as BT Assistant and P.G. Assistant from June 2001 to April 2014 at Sri Sivananda Balalaya, Trichy. While this being the case, it is highly inappropriate on the part of the 2nd respondent to reject her candidature for the same teaching post. Therefore, it is contended that the petitioner's candidature may be considered for the post of Graduate Assistant.

4. The learned Special Government Pleader for the 2nd respondent would submit that the petitioner, having secured only 56.82 marks, cannot be compared with one Mr.Kuppusamy, who is also coming under BC category. Since the said Mr.Kuppusamy is coming under priority category of PSTM, for whom, the cut off mark being 55.81% of the total weightage mark, he was selected. Secondly, the petitioner has not questioned the validity of G.O.Ms.No.25 and the consequential G.O.Ms.No.71 dated 30.05.2014. When these two G.Os., have been upheld by this Court in W.A.No.1031/2014 etc batch and further on appeal, the Apex Court also affirmed the correctness of the judgment passed by the Division Bench, the prayer made by the petitioner for issuance of a Writ of Mandamus directing the respondents to select her as Graduate Assistant is wholly untenable.

5. I am in full agreement with the reply given by the learned Special Government Pleader for the 2nd respondent.



6. First of all, the petitioner comes under the category of Backward class community. No doubt, one Mr.Kuppusamy belong to B.C. category has secured 55.81% of total weightage marks. Since Mr.Kuppusamy was selected under PSTM candidate, the cut off mark fixed for PSTM candidate being different, other than the one meant for BC category, the comparison made by the petitioner with Mr.Kuppusamy, who is coming under PSTM category is totally unacceptable.

7. Secondly, as rightly contended by the learned Special Government Pleader, no challenge has been made by the petitioner to the validity of G.O.Ms.Nos.71 and 25.

8. For all these reasons, this writ petition is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary to the Government
School Education Department,
St. George Fort, Chennai.

2. The Chairman
Tamilnadu Teachers Recruitment Board,
EVK Sampath Maligai, DPI Compound,
Chennai.

+1 cc to Mr.N.R.Murugesan , Advocate in SR.No. 70914

+1 cc to The Special Government Pleader in SR.No.70957

RR

AE/SKN RSK/SAR3/23.08.2017/3P/5C

W.P(MD)No.14497/2014 and M.P.No.1 of 2014

03.08.2017