

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2018

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THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No. 5163 of 2018

S.Damodaran

..Petitioner

Vs

1.State of Tamil Nadu
rep.by its Principal Secretary,
Dept. of School Education,
St.George Fort,
Chennai -600 009.

2.The Chairman
Teachers Recruitment Board,
4th Floor, EVK Sampath Maligai,
DPI Campus, College Road,
Chennai-600 006.

3. The Member Secretary,
Teacher Recruitment Board,
4th Floor, EVK Sampath Maligai,
DPI Campus, College Road,
Chennai-600 006.

4. The Director of School Education,
DPI Campus, College Road,
Chennai-600006.

..Respondents

PRAYER : Writ Petition is filed under Article 226 of Constitution of India to issue a writ of Mandamus praying to issue directing the respondents to select and appoint the petitioner for the post of B.T. Assistant in Physics or Chemistry (Telugu) based on certificate verification held on 09.05.2014 (as petitioners marks are valid till 2021) conducted by the 2nd respondent herein for the post of B.T. Assistant (Mathematics and Science Teacher)

For Petitioner : Mr.R.Bharath Kumar

For Respondents: Mr.C.Munusamy, Spl.GP

ORDER

The petitioner has come forward with the prayer for issuance of Writ of Mandamus, directing the respondents to select and appoint the petitioner to the post of B.T. Assistant in Physics or Chemistry (Telugu) based on certificate verification held on 09.05.2014 (as petitioner 's marks are valid till 2021) conducted by the 2nd respondent herein for the post of B.T. Assistant (Mathematics and Science Teacher)

2. The case of the petitioner is that he belongs to Most Backward Community and has completed SSLC in the year 1994 with Telugu as medium of instruction by securing 50.2% of marks from the Board of Secondary Education, Andhra Pradesh. The petitioner has also completed his Higher Secondary Education in the year 1997 by securing 59.2% of marks. The petitioner did his graduation in BSc comprising three major subjects viz., Mathematics, Physics and Chemistry and completed the Degree in the year 2000.

3. The Petitioner had appeared for Teacher Eligibility Test and was forced to opt one major subject namely Mathematics in coding sheet prescribed by the respondent in the prospectus. The petitioner got selected in the examination held in the year 2014 which is valid up to sever years and the petitioner has scored 58.4 % marks and that the other candidate in Most Backward Community, who scored 56.9% marks, has been selected in Physics (Telugu). The petitioner, on verification, found that he has scored more marks than all the other candidates and that a candidate who scored lesser marks, has been accommodated and that in the examination paper-II in Column. No. 12 with regard to option of subject, it was mentioned as Mathematics and Science and that 300 is the code number given for Mathematics and Science and there is no code number separately given for Science. As the petitioner has studied three major subjects, namely Mathematics, Physics and Chemistry, his candidature shall be considered.

4. The respondents 2 & 3 have filed counter affidavit contending that, it is true that the petitioner has scored 58.4 marks but the last candidate selected in the vacancy for B.T Assistant (Mathematics) in Telugu in the MBC (General) has scored 61.79 marks and since the petitioner scored only 58.4%, his case could not be considered in Mathematics. The petitioner has opted for BT Assistant (Mathematics) in Telugu at the first instance and the petitioner has exercised his option as Mathematics as per the identity card issued by the Department of Employment and Training and therefore, as per the petitioner's option, he is not entitled to the relief.

5. The learned Special Government Pleader appearing for the respondents stated that the Board issued subject wise vacancies in the notification. Accordingly, the Board issued notification to BT Assistants Mathematics, Physics, Chemistry, Botony, Zoology etc. in science subjects. The petitioner has exercised his option for B.T Assistant (Mathematics) alone and therefore the petitioner cannot have indefeasible right to claim for change in the subject after the recruitment process has commenced, hence, the relief sought for by petitioner cannot be granted. If any fresh notification is issued by the Teachers Recruitment Board calling for the posts of BT Assistants, it is open to the petitioner to apply.

6. Heard both parties and perused the materials available on record,

7. It is not in dispute that the petitioner had studied medium of instruction in Telugu and completed his graduation in BSc comprising three major subjects viz., Mathematics, Physics and Chemistry. The petitioner has scored 58.4% marks. The Petitioner has opted only for the post of BT Assistant (Mathematics). It is true that the person who scored lesser marks has been selected as BT Assistant (Physics). Since the petitioner scored marks below the cut off marks of 61.79, the petitioner cannot as matter of right, demand that his case should be considered with the other BT Assistant category candidates. If the case of the petitioner is accepted, there may be candidates who have opted for BSc Mathematics or BSc Chemistry or any other subjects and secured more marks, they should also be given a chance to compete with the petitioner and it will amount to stalling the entire recruitment process. The candidate namely Pujali Lakshmana who scored lesser marks than the petitioner opted BT Assistant (Physics) in that category. If the case of the petitioner is considered, even though the mark scored was lesser, this will amount to giving right to the petitioner to change/conversion from Mathematics to Physics or any other subject, as that is not permissible. Hence, this court is of the view that the petitioner will not be entitled to get any relief as prayed for.

8. Since there is no option given in the prospectus for conversion, the petitioner shall have to adhere to the conditions stipulated in the prospectus, and therefore, the petitioner as a matter of right cannot seek for any conversion.

9. In case, there are vacancies in Science Subject and if any vacancies are to be filled up in that category, it is open to the petitioner to apply along with the similarly placed persons, but the petitioner cannot, as a matter of right, demand that he must be given posting as BT Assistant in a particular

subject.

With the above observations, the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar (CS-iv)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary,
Dept. of School Education,
St. George Fort,
Chennai -600 009.
2. The Chairman
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4. The Director of School Education,
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Chennai-600006.

+1cc to Mr.R.BHARATH KUMAR, Advocate, S.R.No. 50447
+1cc to the Government Pleader, S.R.No. 50383

W.P.No. 5163 of 2018

TR(20/08/2018)

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