

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.10.2018

Coram

The Hon'ble Mr.Justice Satrugana Pujahari

Writ Petition No.27152 of 2017
and
W.M.P.Nos.29009 and 29010 of 2017

A. Poongothai

...Petitioner

Vs.

The Teachers Recruitment Board,
rep. by its Chairman,
EVK Sampath Maaligai,
College Road, Chennai.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records relating to the proceedings issued by the respondent for direct recruitment of Post Graduate Assistants/Physical Director Grade - I-2016-2017 Provisional List of Candidates called for certificate verification (DSE & Other Department) Phase -2, dated 13.10.2017 in pursuant to 08-History and to quash the same and to direct the respondent to include the petitioner's name and publish the same.

For Petitioner : Mr.G.Murugendran

For Respondent : Mr.P.Kavitha
Government Advocate

सत्यमेव जयते
O R D E R

The grievance of the petitioner, in this Writ Petition is that pursuant to the notification issued on 09.05.2017, applied to the respondent, Teachers Recruitment Board (TRB) for her selection and wrote written examination for the post of PG Teachers (History). After the examination was over, a provisional list was furnished, indicating the cut off mark. The petitioner, who had secured 71 marks along with other candidates was called for certificate verification in respect of the post, she had applied for. It appears that there were six posts available against which, 19 candidates were called. The petitioner was awarded three marks in certificate verification,

but could not be selected as the other candidates secured more marks. However, as one of the selected candidates did not join, and as such, to fill up the said vacancy, second provisional list, indicating the cut off marks was published. In the second provisional list, 74 being the cut off mark, though the petitioner has secured 71 marks, her name did not find place. Aggrieved by such elimination, the petitioner has filed this Writ Petition. It is pertinent to mention here that the petitioner, in this Writ Petition though has not made a specific prayer, challenging the mode of second selection to be illegal and arbitrary but has contended that inclusion of the persons not selected in the first provisional list was made illegally and arbitrarily, inasmuch as, the petitioner, though had secured more marks than the candidates included in the second provisional list, she was not given a call for certificate verification, and as such, sought for a direction to include her name in the second provisional list for certificate verification.

2. Counter affidavit has been filed, indicating the fact that the petitioner has no case, inasmuch as, she was not qualified to be included in the second provisional list. In the meanwhile, though the petitioner was allowed to participate in the certificate verification conducted in regard to second selection pursuant to the interim direction issued by this Court, but, she having not secured the cut off marks more than the persons, who were participated, she has been denied the post. Therefore, the Writ Petition has become infructuous. It is further pleaded that as one of the selected candidates in the category of the petitioner did not join in the first selection from the rest of the candidates, who had secured maximum marks in the written examination was required to be included in the second provisional list. As it appears that since two persons have secured highest marks out of the left out candidates, those two were given call, i.e., for securing 74 marks each in the written examination. But the petitioner is making misrepresentation before this Court that she also secured 74 marks, which was the marks obtained by her in the written examination as well as the weightage marks given to her in the certificate verification, she filed this Writ Petition challenging that though she secured 74 marks, she not provisionally selected, even if persons having secured 74 marks have been selected, this Court, considering the same, pending disposal of the Writ Petition allowed the petitioner to participate in the certificate verification. Accordingly, the petitioner participated in the certificate verification with regard to the second round of selection and for the left out one post and such selection, her total marks being 74 and out of the two other candidates, one having secured 77 being with the weightage given, he was selected. Therefore, the petitioner

could not have any grievance, is the contention of the learned Government Advocate for the respondent. Hence, the Writ Petition is liable to be dismissed.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate for the respondents at length.

4. The learned counsel appearing for the petitioner submits that, in the first selection, though the candidates selected were stated to have secured 77, in the first selection, the last cut off being 75, when there was no selection, how can they be included in the second list for securing 77 marks, and as such, the allocation of three marks during certificate verification to the other candidates is without any substance and that was being done solely to deprive the petitioner from being appointed. The petitioner having admittedly secured 74 marks, this Court should quash the selection of those candidates in the second list and direct the appointment of the petitioner.

5. The same is, however, disputed by the learned Government Advocate for the respondent to have any truth. She further drawn the attention of this Court to the process of selection, as indicated in the notification published by TRB, which indicates that on the basis of the marks scored in the written examination, candidates are to be provisionally selected in the ratio of 1 : 1, and as such, against the vacancy of six posts, six persons should have been selected. An explanation being there, indicating the fact that when more than one person secured the same marks, they shall be selected, notwithstanding the aforesaid ratio and the first cut off being starting with 75 and the last cut off being ending with 71, the writ petitioner, who had secured 71 in the written examination was given a call. However, after given such a call for certificate verification, necessary weightage was given to the persons with regard to the employment exchange seniority, and six persons, who were selected is on the basis of the score on descending order. However, after such selected person, as one did not join, TRB went for publication of the second provisional list to fill-up that post on the basis of the highest written score, in such second selection, 74 marks being the highest score and two persons having scored the same marks, those two were given the call, in view of the explanation. The petitioner, who infact, had secured 71 marks, but misleading this Court, as if, she has secured 74 marks, inasmuch as, in the first selection, her such score was written score + employment exchange seniority, came to this Court and took the interim order. In spite of the same, the petitioner having not secured highest marks, inasmuch as, her total score was 74, whereas, persons, who were there in the provisional list secured 77 with employment exchange, hence, the

petitioner has no case and as such, this Writ Petition is liable to be dismissed, submits the learned Government Advocate appearing for the respondent.

6. I have gone through the advertisement made. The advertisement specifically states that the selection of the candidates in the provisional list has to be made in the ratio of 1 : 1, i.e. that for one post, one candidate has to be selected. However, if similar marks are secured by more than one candidates, then, all of them are to be selected. Thereafter, the weightage marks as per the employment exchange seniority has to be added to the written examination marks and adding both the marks, the candidates, who secure more marks has to be selected and a merit list has to be prepared. If some of the post in the course of such selection remain unfulfilled on account of the persons selected was in such certificate verification was found to be ineligible or did not wish to join in the post in spite of selection, for the left out vacancy, another provisional list has to be drawn in the aforesaid manner. As it appears in this case that for six posts in the category of the petitioner, 19 candidates were given the call, due to the equality in marks. After certificate verification and giving the weightage of employment exchange seniority, six persons were selected. One of them did not join, then, for the said vacancy from among the left out candidates, who had secured more marks in written examination were included in the second provisional list. As two candidates have secured similar marks, they were included in the second provisional list. Both of them have secured 74 marks than the petitioner, who had secured 71 marks in the earlier round of selection, having got three weightage marks in the employment exchange seniority during certificate verification made a misrepresentation that she also secured 74 marks, but not given the call. This Court, therefore, vide the interim order permitted the petitioner to participate in the certificate verification. During the certificate verification, however, the petitioner's marks remain 74, including the employment exchange seniority weightage. Whereas, the candidates selected having secured 74 in the written examination and three marks in the employment exchange seniority, they were selected. Therefore, those meritorious candidates having been selected, the petitioner's claim in this Writ Petition is without any substance. In other words, the petitioner was not qualified to be given a call in the second provisional list, inasmuch as, she had not secured required cut-off marks in the written examination.

7. For the aforesaid reasons, this Court is of the view that the Writ Petition filed by the petitioner challenging the inclusion of candidates in the second provisional list on the ground that she has secured more marks than them appears to be

without any substance. Accordingly, the Writ Petition stands dismissed. However, in the circumstances, there shall be no order as to costs. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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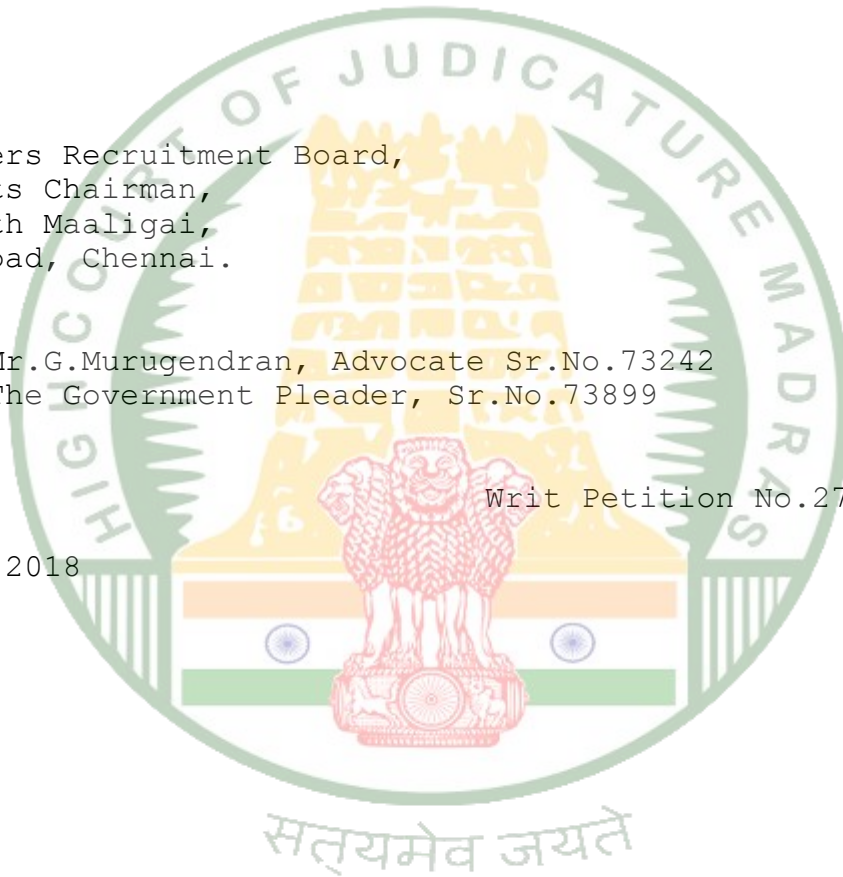
To

The Teachers Recruitment Board,
rep. by its Chairman,
EVK Sampath Maaligai,
College Road, Chennai.

+1 cc to Mr.G.Murugendran, Advocate Sr.No.73242
+1 cc to The Government Pleader, Sr.No.73899

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SR(CO)
CSL/27.11.2018



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