



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.05.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P (MD) No.11787 of 2018

and

W.M.P (MD) No.10702 of 2018

M.Nathiya

... Petitioner

-vs-

1.The Principal Secretary to Government of Tamil Nadu,
Department of School Education, Secretariat,
Chennai.

2.The Chairman,
Teachers Recruitment Board,
College Road, Chennai - 6.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the second respondent to award one mark for the answer given by the petitioner for the question No.132 (Paper-II, C-Series) in TNTET Paper-II 2013 and in consequence thereof declare the candidature of the petitioner as eligible and provide her with the post of B.T. Assistant (History) on the basis of revised mark.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondents : Mr.VR.Shanmuganathan,
Spl. Govt. Pleader

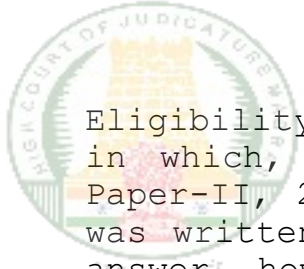
O R D E R

This writ petition has been filed, seeking a direction to the second respondent to award one mark for the answer given by the petitioner for the question No.132 (Paper-II, C-Series) in TNTET Paper-II 2013 and in consequence thereof declare the candidature of the petitioner as eligible and provide her with the post of B.T. Assistant (History) on the basis of revised mark.

2. Mr.V.R.Shanmuganathan, learned Special Government Pleader, takes notice for the respondents. By consent on either side, the writ petition is taken up for final hearing at the admission stage itself.

<https://hcservices.ecourts.gov.in/hcservices/>

3. It is the case of the petitioner that she, being a Post Graduate in M.A. (History) had participated in the Teacher



Eligibility Test conducted by the second respondent on 18.08.2013, in which, for the question No.132 (Paper-II, C-Series) in TNTET Paper-II, 2013, namely, "in which language the song Vande Matharam" was written first? she had chosen to tick '(a) Bengali' as correct answer, however, the second respondent mentioned '(d) sanskrit' as the correct answer and therefore, she has made a representation to the respondents to award one mark for the same and provide her with the post of B.T. Assistant (History) on the basis of the revised mark.

4. It is the further case of the petitioner that there is a vacancy in the post of B.T.Assistant (History) and if one mark is awarded to her, she is eligible to be appointed for the said post. For the fault of the respondents in providing wrong answer, she has been made to suffer, even though she is qualified in all other aspects. Therefore, she has knocked at the doors of this Court with the above prayer.

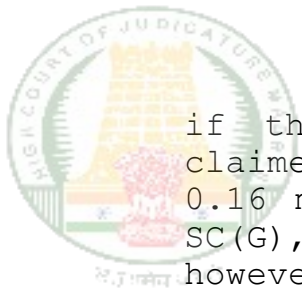
5. Learned counsel for the petitioner, by relying upon the judgment passed by me in the case of K.Veeramani vs. The Chairman, Teachers Recruitment Board, College Road, Chennai [W.P.No.32316 of 2018] decided on 25.07.2017, has submitted that the petitioner is short by one mark and if the dictum followed in the above referred case is applied, she will automatically be entitled to be appointed to the post of B.T.Assistant (History), but the respondents, without responding positively to the case of the petitioner, have been taking steps to fill up the said post so as to deprive the interest of the petitioner.

6. For the sake of convenience, it will be appropriate to extract the relevant paragraphs of the judgment (cited supra) as follows:

"13.From the perusal of the materials produced before this Court, that the song Vande Matharam was originally penned down as Bondey Matorom by Bongkim Chondro Chottoapadhyay in Bengali. It was later translated to Sanskrit as Vande Matharam. Though Sanskrit has been used in the song a cursory perusal of all relevant records produced would reveal that the native language in which the song was written in Bengali.

14.The learned Advocate General Mr.R.Muthukumarasamy, has also accepted the fact that the song Vande Matharam was originally written in Bengali and there was a mistake on the part of the respondent in not awarding the mark for the petitioner though he has selected the correct option Bengali.

15.Therefore, it is clear that the petitioner is entitled for one additional mark since he has rightly answered the question in issue. Hence, it is directed that the respondent shall award one additional mark to the petitioner. Though it has been communicated that even



if the petitioner is granted one additional mark as claimed, he would still have a cut-off of 58.57 which is 0.16 marks lesser than the prescribed cut-off marks for SC(G), the learned counsel for the petitioner would however submit that several persons below the petitioner have been accommodated and given appointments as B.T. Assistant. But, the Special Government Pleader through the Additional counter informed this Court that one Mr.Elavarasan, who secured 54.12 marks in the TET and belongs to SC(G) was given appointment on the ground that he perused B.Ed. in Special Education.

16.Considering the submissions made by the learned counsel appearing for the petitioner and also considering the fact that the petitioner is only 0.16 marks below that cut-off marks as claimed, the respondent is directed to accommodate the petitioner in any vacancy that have arisen in the SC(G) category and consequently issue appointment order as B.T. Assistant, if otherwise eligible within a period of four weeks from the date of receipt of a copy of the order. The writ petition is allowed in the aforesaid terms. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed."

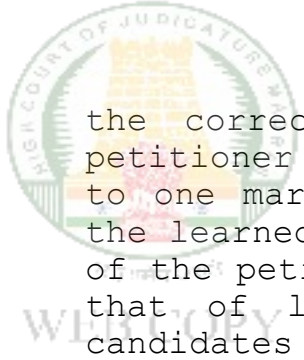
7. The learned Special Government Pleader would submit that the petitioner has approached this Court after a lapse of five years, that too after announcement by the respondents to fill up the post of B.T.Assistant (History) and therefore, it is needless to go into question regarding the correct answer.

8. Heard the learned counsel on either side and perused the materials available on record as well as the judgment cited by the petitioner.

9. To decide the issue as to whether the answer ticked by the petitioner is correct or not, it is opt to go through the Paragraph No.13 of the judgment referred to by the petitioner, which is extracted below once again for the purpose of clarity:

"13.From the perusal of the materials produced before this Court, that the song Vande Matharam was originally penned down as Bondey Matorom by Bongkim Chondro Chottoapadhyay in Bengali. It was later translated to Sanskrit as Vande Matharam. Though Sanskrit has been used in the song a cursory perusal of all relevant records produced would reveal that the native language in which the song was written in Bengali."

10. A careful reading of the above paragraph would amply prove the fact that the song Vande Matharam was written in Bengali only and therefore, it can be said that the petitioner has marked



the correct answer in the OMR sheet. It is the stand of the petitioner that if one additional mark is awarded, she is entitled to one mark. Mere delay in approaching the Court, as contended by the learned Special Government Pleader will not take away the rights of the petitioner in getting employment, as everybody is well aware that of late, getting a Government Job is almost a dream of candidates writing public examinations.

11. Considering the submissions made by the learned counsel appearing for the petitioner; taking into account the fact that the mistake has been committed by the second respondent in providing wrong answer; that the petitioner is only one mark below than the cut-off marks as claimed and that following the after-stated judgment of mine, the second respondent is directed to award one mark for the answer given by the petitioner in respect of Question No.132 (Paper-II, C-Series) in TNTET Paper-II 2013 and consider her case positively for appointment to the post of B.T. Assistant (History) on the basis of the revised mark, if otherwise eligible, within a period of four weeks from the date of receipt of a copy of the order.

12. The writ petition is allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Vacation Officer/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.The Principal Secretary to Government of Tamil Nadu,
Department of School Education, Secretariat,
Chennai.

2.The Chairman,
Teachers Recruitment Board,
College Road, Chennai - 6.

+1cc to Mr.P.Ganapathi Subramanian, Advocate, SR.No.66404.

W.P (MD) No.11787 of 2018
31.05.2018

smn/cp/ar

RAM/JC/SAR 2/08.06.2018/4P/4C