



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 24.09.2018

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P(MD)No.17769 of 2018

N.Sugan

..Petitioner

Vs

- 1.The State of Tamil Nadu,
represented by its Secretary,
Higher Education Department,
Secretariat, Chennai.
- 2.The Member Secretary,
Teachers Recruitment Board,
Fourth Floor, E.V.K.Sampath Maligai,
DPI Compound, College Road,
Chennai -6.
- 3.The Director,
Centre of Academic Courses,
Anna University,
Guindy,
Chennai.
- 4.The Director,
Directorate of Technical Education(DOTE),
Sardhar Patel Road,
Chennai.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the second respondent in his proceedings in Na.Ka.No.11072/R4/2017, dated 13.7.2018 and to quash the same and consequently direct the respondents to appoint the Petitioner as Assistant Professor in Electronics and Communication Engineering under the SC General Category with all consequential benefits.

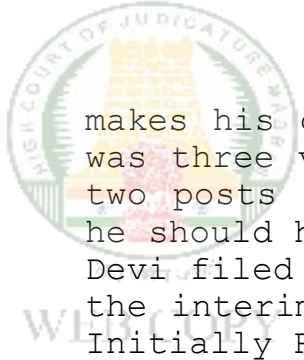
For Petitioner :Mr.V.Panneerselvam
For Respondents :Mr.VR.Shanmuganathan
1,2 and 4 Special Govt.Pleader
For Respondent-3 :Mr.M.Rajarajan
Government Advocate

ORDER

The Petitioner has come forward with this Writ Petition challenging the impugned proceedings, dated 13.7.2018 in carrying forward the posts falling under the SC General category to the next selection list, as illegal, as according to the Petitioner, he is the eligible candidate to be accommodated in the said post, as he has secured more marks and that the re-notification to fill up the said vacancy is bad.

2. According to the Petitioner, there are 192 posts in the Engineering Department and it has been decided to fill up 22 posts and the Petitioner is one of the candidates who secured more marks. The Petitioner has secured more marks in the written examination scheduled in the year 2016 and that the Petitioner belongs to Scheduled Caste community and he is entitled to the said post, as three posts have been reserved for Scheduled Caste community, I.e., one for SC(Women)category and two posts for SC(General)category. Certificate Verification was also conducted and the Petitioner has participated in the said process and results have been published. Out of 22 posts including that of three posts reserved for Scheduled Caste Category, one meant for SC Women and two posts for SC General, 21 posts have been filled up, as one candidate Renuka Devi belonging to Scheduled Caste has approached this Court and obtained an interim order in W.P(MD)No.4327/2017 that one post should be kept vacant. The said Writ Petition was withdrawn by her as the said Renuka Devi was selected under SC Women priority category and the vacancy that has fell vacant due to the interim orders of this Court obtained by her, has not been filled up, but the respondents are trying to carry forward the said vacancy to the next selection list. As the Writ Petition filed by Renuka Devi is withdrawn and that the Petitioner being the successful candidate both in the written examination and also in the interview and as he has secured more marks, there is no impediment on the part of the respondents to appoint the Petitioner in the SC General category, which was kept vacant pursuant to the interim orders of this Court obtained by one Renuka Devi. When there is no fault on the part of the Petitioner and that the respondents are trying to carry forward the said vacancy to the next selection list, the action of the respondents has to be interfered with. The respondents will have to appoint the Petitioner as Assistant Professor in one post kept vacant in SC General category, by quashing the proceedings dated 13.7.2018.

3. The second respondent has filed a counter affidavit and the sum and substance of the counter is that advertisement to the post of Assistant Professor was made on 20.07.2016 and examination was conducted on 22.10.2016. After that, provisional list was published on 16.01.2017 and Certificate Verification was done on 19.1.2017. Out of 22 posts in Engineering subjects, in which the Petitioner



makes his claim, more particularly, in the SC General category there was three vacancies identified one meant for SC Women category and two posts for SC General category. The Petitioner has claimed that he should have been appointed in the SC General category as Renuka Devi filed Writ Petition and obtained interim order and pursuant to the interim order, one post in SC General category was kept vacant. Initially Renuka Devi did not obtain Equivalence Certificate and her candidature was not considered. Thereafter, after she produced the Equivalence Certificate, her candidature was considered and she was accommodated in SC Women category. As the said vacancy has been filled up in SC Women category, the respondents have decided to carry forward the SC General category to the next selection list, which cannot be held to be bad and the Petitioner as a matter of right cannot demand that he should be accommodated in SC General category and hence the Writ Petition has to be dismissed.

4. Heard the submissions made on either side and perused the materials placed before this Court.

5. It is not in dispute that there was an advertisement to the post of Assistant Professor in which the Petitioner came out successful and he belongs to SC General category. The petitioner has secured the required marks and that he was the candidate to be appointed in the post of SC General category because of the interim order obtained by one Renuka Devi who filed W.P.No.4325 of 2017, pursuant to which one post was kept vacant. The vacancy could not be filled up, after the above said Writ Petition was withdrawn by the said Renuka Devi, as she was accommodated in SC Women category.

6. It is no doubt true that the respondents are entitled to carry forward the vacancy meant for SC General to the next selection list, provided there are no candidates available. In the present case on hand, the Petitioner is a successful candidate and without accommodating the petitioner, due to the proceedings pending before this Court, the respondents are trying to shift the vacancy to the next selection list, which cannot be accepted. As the Petitioner in W.P.No.4325 of 2017 one Renuka Devi has been appointed in the SC Women category, the Petitioner is the only candidate eligible to be accommodated and that Renuka Devi was already appointed in SC Women category, I find that there is no justification on the part of the respondents in issuing the impugned notification on 13.7.2018 and carry forward the said vacancy to the next selection list and hence the impugned order has to be interfered with and the vacancy cannot be carried forward as back-log vacancy as the eligible candidate namely the Petitioner was available on that date and that the said vacancy cannot be filled up, which was kept vacant pursuant to the interim orders of this Court.

7. Accordingly, the Writ petition is allowed and the impugned order passed by the second respondent, dated 13.7.2018 is set aside and the respondents are directed to accommodate the Petitioner as Assistant Professor in Electronics and Communication Engineering



under the SC(General) Category. The respondents are directed to complete the above said exercise within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(RECORDS)

WEB COPY /True Copy/

Sub Assistant Registrar(CS-IV)

To

- 1.The Secretary,
Higher Education Department,
Government of Tamil Nadu,
Secretariat, Chennai.
- 2.The Member Secretary,
Teachers Recruitment Board,
Fourth Floor, E.V.K.Sampath Maligai,
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- 4.The Director,
Directorate of Technical Education(DOTE),
Sardhar Patel Road,
Chennai.

- 1 CC TO Mr.V.PANNER SELVAM , ADVOCATE IN SR No.86036.
- + 1 CC TO Mr.MR.RAJARAJAN , ADVOCATE IN SR No.86520.
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