

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED: 10.04.2019****CORAM****THE HONOURABLE MR. JUSTICE V.PARTHIBAN****WP.No.18989 of 2011**

Mr.A.Subramanian ... Petitioner

Vs.

The Teachers Recruitment Board,
rep. by its Member Secretary,
4th Floor, EVK Sampath Maligai,
DPI Compound,
Nungambakkam,
Chennai-600 006.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order of the respondent in Proceeding RC.No.552/B5/2011 dated 12.07.2011, quash the same and consequently direct the respondent to appoint the petitioner in the existing vacancies after certification verification for the post of Block Resource Teacher Educators for Block Resource Centers in 32 districts under SSA Scheme.

For Petitioner : Mr. A.S.Palanisamy

For Respondents : Mr.P.Raja, GA

ORDER

This Writ Petition has been filed, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order of the respondent in Proceeding RC.No.552/B5/2011 dated 12.07.2011, quash the same and consequently direct the respondent to appoint the petitioner in the existing vacancies after certification verification for the post of Block Resource Teacher Educators for Block Resource Centers in 32 districts under SSA Scheme.

2. The petitioner, in response to the notification dated 13.11.09, issued by the respondent/Board, applied for recruitment to the post of Block Resource Teachers Educator. The petitioner, after participation in the selection process, was selected in the Zoology category. According to the petitioner, his name was placed in the selection list at S. No.67. As he

was awaiting appointment letter in pursuance to his selection, to his shock, he came to know that already candidates were selected and appointed. According to him, he had received the communication issued by the respondent only on 12.11.10, by which time the certificate verification was already done and the candidates were already selected and appointed. The petitioner immediately approached the postal authorities as to how the communication had been delivered to him belatedly and the petitioner was informed that the communication sent by the respondent was delivered mistakenly to a different addressee and after sometime, the same was identified and delivered to him and they regretted for the mistake.

3. In the above circumstances, the petitioner took up the issue with the respondent Board and stated that they had not sent the communication by registered post acknowledgement due as in the case of other candidates and because of that, it was wrongly delivered to a different addressee and because of that the petitioner, though selected, was denied appointment

as per his selection. A representation in this regard was submitted on 29.11.10. Since there was no response forthcoming from the respondents, the petitioner appears to have approached this Court in W.P. No.29213 of 2010 seeking direction to appoint him as Block Resource Teacher Educator. The writ petition was disposed of on 23.12.10 directing the respondent to consider the petitioner's representation dated 29.11.10 and pass appropriate orders. The learned Judge, while disposing of the writ petition, has directed that in case of genuine delay on the part of the postal department, the first respondent shall also consider the same and pass appropriate orders.

4. In pursuant to the direction of this Court, an order was passed on 12.7.11 that the provisional list of selectees was published in the official website of the respondent and the candidate concerned ought to have seen the website and ought to have attended the certificate verification. Since the certificate verification was over, there was no question of

providing any alternative date to the petitioner for certificate verification. In the backdrop of the above facts, the petitioner is before this Court seeking to challenge the order dated 12.7.11 and for a consequential direction to appoint him as Block Resource Teacher Educator in pursuance of his selection, which was held in the year 2010.

5. Learned counsel appearing for the petitioner vehemently contended that it was an unfortunate case that the petitioner has lost his valuable right of appointment because of the mistake committed by the postal department. If only the respondent/Board had communicated to the petitioner by registered post with acknowledgement due, the petitioner would have received the letter in time and would have attended the certificate verification as per the direction. It was a clear case of mistake committed by the postal department and the petitioner cannot be blamed for not attending the certificate verification along with the other candidates. Therefore, the respondents ought to have

appreciated the extraordinary circumstances, which prevented the petitioner from attending the certificate verification and the respondent ought to have taken such circumstances into consideration and treated the case of the petitioner as a special one and should have granted relief to the petitioner. Unfortunately, the respondent has mechanically rejected the petitioner's claim stating that the certificate verification was already over and, therefore, the claim of the petitioner cannot be considered henceforth.

6. In response to the notice issued in the writ petition, Mr.P.Raja, learned Government Advocate entered appearance on behalf of the respondent and submitted that the respondent was in no way responsible for the non-appearance of the petitioner during certificate verification and according to the learned counsel for the respondent, all the posts were filled up in 2010 itself and , therefore, today there is no vacancy to consider the claim of the petitioner. This submission was made on behalf of the respondent/Board

when this Court directed the respondent's counsel to ascertain whether there are any vacancies in order to consider the claim of the petitioner today on the ground that the petitioner was unfortunately denied an opportunity to attend the certificate verification because of mistake committed by the postal department. The respondent asserted that there are no vacancies as on date in the post in which the petitioner was originally selected and it is also averred in the counter affidavit that no relief could be claimed by the petitioner at this distance of time and prayed for dismissal of the writ petition.

7. In fact, the case of the respondent was that all the candidates attended the certificate verification on the specified date on the basis of the information put on the website calling the candidates to attend certificate verification. It was therefore, the fault of the petitioner having not seen or viewed the official website of the respondent and he cannot blame the respondent/Board for not sending the communication by

registered post acknowledgement due. In fact, all the candidates, who appeared in the selection process have been duly informed through the notification posted on the website to enable them to know the status of their selection. According to the status report, all the candidates were informed, apart from the website, information through certificate of posting and the candidates have received such of the communication and attended the certificate verification and the petitioner alone did not attend the certificate verification.

8. From the above facts, it is clear that the petitioner has missed the bus by not being alert in viewing the official website of the respondent/Board during the period of selection. If only the petitioner had been a little more vigilant and alert in viewing the official website of the Board at the time of selection, the petitioner could have come to know of the date of certificate verification and could have attended the same. Unfortunaely, the petitioner probably was not aware of

the practice of the present day communication, which is being adopted in all selection in the modern age. Although the petitioner and other selected candidates were communicated under certificate of posting, it was unfortunate that the petitioner could not receive the communication in time due to mistake committed by the postal department. In such circumstances, the respondent/Board cannot be blamed for the mistake committed by a different department and if only the petitioner has any grievance, such grievance can be addressed only to the postal department. As regards the respondent/Board is concerned, the petitioner did not respond to the call for certificate verification and, therefore, he was not considered for ultimate appointment.

9. In any case, when this Court, in order to alleviate the grievance of the petitioner, in the special circumstances of the case as narrated above, enquired with the respondent/board as to whether there is any vacancy available as on date in order to consider the claim of the petitioner for his

accommodation, in pursuance of his selection, however, at this, learned counsel for the respondent/Board submitted that there are no vacancies at all and all the posts were filled up in 2010 itself.

10. From the records, it is seen that the original communication by the respondent/Board has been delivered to a different addressee, being the next door to the petitioner and after some time, the same was identified and delivered to the petitioner by which time, the certificate verification was already over. The petitioner cannot be blamed for the predicament in which he was placed in being denied his valuable appointment though he was selected for appointment as Block Resource Teacher Educator. However, in view of the assertion of the respondent/Board that there are no vacancies, this Court is unable to provide any relief to the petitioner as the claim was in relation to a selection which took place nine years before, i.e., in 2010.

11. However, considering the overall circumstances, this Court is of the considered view that the respondent/Board may consider the claim of the petitioner for certificate verification and on being satisfied with the verification made, recommend the name to the Government for appointment as Block Resource Teacher Education in any future vacancies that may arise in any of the districts in the State of Tamil Nadu in the petitioner's category. This direction is passed only taking note of the peculiar facts of this case and it is hoped that the respondent/Board shall take into consideration that it was purely a mistake committed by the postal department for not having delivered the communication in time to the petitioner because of which the petitioner was prevented from attending the certificate verification.

12. This writ petition stands disposed of with the aforesaid observations and directions. However, there shall be no order as to costs.

gln

10.04.2019

V.PARTHIBAN, J.

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