

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.12.2019
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
W.P No.35224 of 2019
and W.M.P Nos. 36028 & 36034 of 2019

R.Abdulkadhar

Petitioner

vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Higher Education Department,
Fort St. George, Chennai - 600 009.
2. The Chairman,
Teachers Recruitment Board,
DPI Campus, College Road, Chennai.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned online notification of the 2nd respondent dated 27.11.2019 vide Notification No.14/2019, quash the same and consequently direct the respondents to issue a fresh notification by including a separate category for the candidates holding priority certificates.

For Petitioner : Mr.D.R.Arunkumar

For Respondents: Mrs.V.Annalakshmi
Government Advocate for R1

Mr.C.Munusamy
Special Government Pleader for R2

O R D E R

This writ petition has been filed challenging the notification issued by the 2nd respondent on the ground that the notification does not provide for a separate category for the candidates holding priority certificates.

2.The notification issued by the respondents apart from the communal reservations only provides for a horizontal reservation under certain heads. The grievance of the petitioner is that there is a Government Order in G.O.Ms.No.188, Personnel and Administrative Reforms (Per.P) Department, dated 18.12.1978,

where in the Government had decided to include the category of persons whose lands have been acquired by the Government for public purpose. The persons claiming reservation on this ground also have to get a certificate called as Priority Certificate. The claim of the petitioner is that he has also been given a priority certificate by the competent authority.

3.The further grievance that has been expressed by the petitioner is that, in all the other recruitments, a specific reservation has been made for a candidate under the priority category and even the respondents in the previous notification had such a category and only in the present notification the same has been deleted. Therefore, the petitioner is challenging the notification issued by the Teachers Recruitment Board on this sole ground.

4.Heard Mr.D.R.Arun Kumar, learned counsel appearing on behalf of the petitioner and Mrs.V.Annalakshmi, learned Government Advocate appearing on behalf of the 1st respondent and Mr.C.Munusamy, learned Special Government Pleader appearing on behalf of the 2nd respondent.

5.Originally, reservations were made to persons belonging to various communities in order to ensure that they are also brought in to the main stream of the society. Those reservations fall under the category of Backward Class, Most Backward Class, Scheduled Caste and Scheduled Tribe. This is also called as vertical reservation in service jurisprudence. As time passed by, reservations started increasing under various heads like Disability, Women, PSTM, Destituted Women, Ex-Servicemen etc., and all these reservations were called as Horizontal reservation. This list keeps increasing day by day and at a particular point of time, this will virtually eclipse the rights of the persons who will be otherwise entitled under the vertical reservation. By virtue of G.O.Ms.No.188, dated 18.12.1978, one more reservation was added for the members of the family whose lands were acquired by Government. The government thought it fit to create such a reservation only to ensure that persons whose lands have been acquired and who lost their livelihood by virtue of such acquisition must be given some preference. This cannot be mechanically applied in all cases, since, the persons whose lands are acquired are paid compensation by the Government. Therefore, if the lands of a wealthy person is acquired by the Government, that does not mean that a family member in that wealthy family will be given priority in the public employment. This defeats the very concept of reservation in public employment. As it is, the horizontal reservation is causing a lot of confusion and chaos in public employment.

6.The petitioner cannot insist that the Teachers Recruitment Board must necessarily provide for the reservation for persons having priority certificate. This is not some constitutional right guaranteed for the candidates. It is always left open to the concerned Board to decide up on the reservations that are given to them (Horizontal reservation) depending upon the nature of post. The concerned recruitment Boards cannot be compelled to provide for all the heads under the horizontal reservation in every recruitment. This is not a vested right for any candidate and there is no corresponding duty for any recruitment Board to provide for the same in every recruitment. In short, insofar as the horizontal reservation is concerned, it will always be open for the concerned recruitment Board to take a decision with regard to the heads under which they are going to provide for horizontal reservation considering the post that is filled up.

7.This Court does not find any merits in the present writ petition and accordingly this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. No Costs.

Sd/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

ssr

To

1. The Secretary to Government,
Higher Education Department,
Fort St. George, Chennai - 600 009.

2. The Chairman,
Teachers Recruitment Board,
DPI Campus, College Road, Chennai.

+1 cc to M/s.D.R.Arunkumar Advocate sr105942

+1 cc to the Government Pleader sr106728

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