

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2019

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THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.P.Nos. 30508 of 2014 and 5152 of 2015
and WMP. Nos. 1 of 2014 & 1 of 2015

P.Ramkumar

...Petitioner in both WPs

Vs

1. The Chairman,
Teachers Recruitment Board,
4th Floor, E.V.K. Sampath Building,
College Road, Chennai-600006.

...Respondent in W.P. No. 30508 of 2014

2. The Principal Secretary
Department of School Education,
Fort St. George, Chennai-600009.

3.The Chairman
Teachers Recruitment Board,
4th Floor, E.V.K. Sampath Building,
College Road, Chennai-600006.

4. The Director,
Directorate of School Education,
College Road, Egmore,
Chennai-600 006.

...Respondent in W.P. No.5152 of 2015

Prayer in WP. No. 30508 of 2014: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, Directing the respondent to issue call letter for certificate verification consequently appoint the petitioner as P.G. Assistant Teacher (Zoology) in the BC category vacancy available in pursuant to the direct recruitment made as per notification No.2/2013 published on 09.05.2013.

Prayer in WP. No. 5152 of 2015: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, Directing to respondents to issue selection order to the petitioner consequently appoint the petitioner as Post Graduate Assistant Teacher in pursuant to the Advertisement No.8/2014

For Petitioner : M/s. P.Srinivasan

For Respondents : Mr. K. Karthikeyan, GA

COMMON ORDER

The case of the petitioner is that the petitioner has passed M.Sc (Zoology), M.Phil, B.Ed and had participated in the examination conducted by the respondent for the post of PG Assistants in Higher Secondary School Education Department and received call letter for certificate verification which was scheduled to be held on 31.10.2012. Due to illness, the petitioner could not attend the certificate verification on the said date and he was marked as absentee for the certificate verification. Therefore, the petitioner has made representation dated 13.12.2012 to the 2nd respondent and the same was received on 17.12.2012. The respondent in its circular in website dated 11.12.2012, has mentioned that they would give chance to the absentees and would keep the posts vacant. The petitioner has approached this Court seeking direction to fix an early date for certification and this Court by its order dated 26.11.2013 in M.P. NO. 1/2013 in W.P. No. 11636 of 2013 has directed the respondent as follows;

"The respondent is directed to issue notice to the petitioner to appear for the next certificate verification. It is made clear that the notice of such certificate verification should be sent by registered post to the petitioner, by giving him reasonable time to produce the documents"

Since the 2nd respondent has not complied with the above order of this Court, the petitioner has filed a contempt petition No. 1983 of 2014. Pending contempt petition, the 2nd respondent has issued another notification no. 2/2013 for fresh recruitment for the posts of PG Assistant in Zoology department. Challenging the same, the present writ petitions are filed.

2. Heard both sides and perused the documents available on records.

3. The learned counsel for the petitioner submitted that the as directed by this Court in the modification order dated 26.11.2013 in M.P. No. 1/2013 in W.P. No. 11636 of 2013, the 2nd respondent has not called for the petitioner for certificate verification for the selection process for the year 2011-2012, therefore, the petitioner has filed the contempt petition against the respondent. Pending contempt petition, another

notification was issued by the 2nd respondent for selection for the year 2013-2014 to fill up the vacancies for the post of PG Assistant in Zoology Department in BC category. The learned counsel for the petitioner further submitted that since, the 2nd respondent has failed to comply the order of this Court, the petitioner has become eligible for the selection as called for in the Notification no. 3/2012 and also the subsequent Notification No. 2/2013.

4. On the other hand, the learned Government Advocate has strongly objected the contentions raised by the learned counsel for the petitioner and submitted that the prayer sought for by the petitioner is only to permit him to appear for the certificate verification for the selection process for the year 2011 - 2012 & 2013 -2014 for the post of P.G Assistant (Zoology) Department. The Government Advocate further submitted that insofar as the selection process for the year 2013-2014 is concerned, the petitioner has not reached the zone of consideration, therefore his name was not considered for the said selection process. Further, the contempt petition filed by the petitioner challenging the selection process for the year 2011-12 is still pending before this Court, hence, the petitioner cannot claim any right over the subsequent notification i.e for the year 2013-14 and therefore, the writ petition deserves to be dismissed.

5. Considering the facts and circumstances of the case and analysing the submissions made by both the counsels and on perusal of the materials available on records, the point that arose for consideration is whether the prayer sought for by the writ petitioner is maintainable to grant relief.

6. Admittedly, the petitioner had participated in the selection process for the year 2011-12 and passed in the written examination, he was unable to appear for the certificate verification. The writ petition filed by the petitioner seeking direction was also dismissed by this court and in the modification petition filed by the petitioner in MP. No.M.P. No. 1/2013 in W.P. No. 11636 of 2013, this Court directed the 2nd respondent to permit the petitioner for the next certificate verification by issuing notice to the petitioner and also by giving reasonable time to produce the documents. Subsequently, the petitioner has filed Contempt Petition No 1983 of 2014 and the same is pending before this Court.

7. The contention of the learned counsel for the petitioner is that the petitioner was selected for year 2011-2012 and the respondent in their circular dated 11.12.2012 published in the website mentioned that they would give chance to the absentees and would keep the posts vacant. Therefore the petitioner is

entitled to be selected for the posts called for in the subsequent Notification No 2/2013 published on 09.05.2013 by the respondent department.

8. The said contention of the petitioner cannot be accepted for the reason that the petitioner has not secured the cut-off marks in the selection held for the year 2013-2014 and therefore, the W.P.No.5152 of 2015 is liable to be rejected. Insofar as the prayer in W.P. No. 30508 of 2014, since the petitioner has filed the contempt petition, contending that the respondent department has not complied with the directions of this Court with regard to his selection for the year 2011-2012, it is for the petitioner to work out his remedy in the contempt proceedings . Hence, the writ is liable to be dismissed.

9. In view of the above, the prayer sought for by the writ petitioner is not maintainable. Accordingly, these writ petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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Teachers Recruitment Board,
4th Floor, E.V.K. Sampath Building,
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2. The Principal Secretary
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3. The Director,
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+1cc to the Government Pleader Sr.101641

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srg 13/02/2020