

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28-03-2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.34613 of 2018

And

W.M.P.No.40128 of 2018

P.Elumalai

.. Petitioner

Vs.

1. The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Campus,
College Road,
Chennai-600 006.

2. The Member Secretary,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Campus,
College Road,
Chennai-600 006.

.. Respondents

PRAYER:

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the second respondent to pass appropriate orders on the petitioner's representation dated 21.9.2017 and to direct the respondents to include the petitioner's name and roll number in the Selection List for the post of B.T.Assistant Teacher in the subject of History for Direct Recruitment of B.T.Assistants and B.T.Assistants (IEDSS) 2015-2016 and to award one mark as per order made in WA No.1040 of 2017 dated 12.10.2017.

For Petitioner : Mr.S.Kumara Devan

For Respondents : Mr.C.Munusamy,
Special Government Pleader.

O R D E R

The relief sought for in the present writ petition is for a direction to direct the second respondent to pass appropriate orders on the petitioner's representation dated 21.9.2017 and to direct the respondents to include the petitioner's name and roll number in the Selection List for the post of B.T.Assistant Teacher in the subject of History for Direct Recruitment of B.T.Assistants and B.T.Assistants (IEDSS) 2015-2016 and to award one mark as per order made in WA No.1040 of 2017 dated 12.10.2017.

2. The grievance of the writ petitioner is of two fold.

3. Firstly, the learned counsel for the writ petitioner states that the writ petitioner was denied one mark in the TET Examinations conducted in the year 2013. Therefore, the writ petitioner seeks award of one mark as per the order passed in WA No.1040 of 2017 dated 12.10.2017.

4. Secondly, the learned counsel for the writ petitioner states that the candidate, who secured lesser mark than that of the writ petitioner, was selected and appointed in the post of B.T. Assistant. In respect of the selection of the year 2017, an attempt is made by the writ petitioner to tag the two reliefs. One relating to the TET Examination of the year 2013 and the another relating to the selection of the year 2017. The reliefs are moulded by the writ petitioner, more specifically, for the purpose of maintaining the writ petition and to avoid the ground of laches.

5. As far as the grant of one mark in respect of the TET Examinations conducted during the year 2013, the same cannot be granted now after the lapse of 5-1/2 years from the date of conduct of the examination. The representation submitted by the writ petitioner, in this regard, cannot be considered.

6. Certain persons, who approached the Court during the year 2013 itself were awarded with one mark and such a benefit granted in respect of the persons, who filed the writ petitions during the year 2013, cannot be granted in respect of the present writ petitioner, who filed the present writ petition during the year 2018.

7. As far as the other prayer is concerned, the writ petitioner states that the persons, who secured lesser mark than that of the writ petitioner, were appointed to the post of B.T. Assistant (History). In this regard, the writ petitioner has to substantiate the illegality or irregularity in order to entertain the present writ petition.

8. The learned counsel for the writ petitioner states that as the writ petitioner made a detailed representation and a direction is to be issued to consider his representation.

9. Even to issue an order of direction to consider the representation, the writ petitioner has to establish the legal right. In the absence of establishing his legal right, no such relief can be granted. In the event of any illegality or irregularity in the process of selection, then the writ petitioner has to challenge the very selection itself by setting out the irregularities and illegalities.

10. Contrarily, the writ petitioner cannot seek a direction to consider his representation. Thus, in the absence of any specific challenge of the selection process as well as the selection, the relief of direction to consider the representation cannot be granted, which would not do any service to the cause of justice. Thus, the writ petitioner has not established any acceptable ground for the purpose of considering the relief, as such, sought for in the present writ petition.

11. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Campus, College Road,
Chennai-600 006.

2. The Member Secretary,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Campus, College Road, Chennai-600 006.

+1cc to Mr.S.Kumara Devan, Advocate, S.R.No.30287

+1cc to the Government Pleader, S.R.No.31070

W.P.No.34613 of 2018

PP(CO)

CS/29/04/2019