

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 14.06.2019****CORAM:****THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM****W.P. (MD) No.16387 of 2014**

WEB COPY

C.Packialakshmi

... Petitioner

-Vs-

1. State of Tamil Nadu,  
Represented by its Secretary to Government,  
School Education Department,  
Secretariat, Chennai-600 009.

2. The Director of Elementary Education,  
Chennai-06.

3. The Teachers Recruitment Board,  
Represented by its Member Secretary,  
4<sup>th</sup> Floor, E.V.K. Sampath Maaligai,  
DPI Compound, College Road,  
Chennai-6.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the third respondent in his proceedings in Advertisement No.05/2014, dated 06.08.2014 and quash the same, insofar as candidates, who have served in the Armed Forces alone are eligible to claim under the Ex-servicemen Quota (the candidate himself should be Ex-servicemen) and direct the respondents to appoint the petitioner as Secondary Grade Teacher and confer all the consequential benefits.

|                |                                                         |
|----------------|---------------------------------------------------------|
| For Petitioner | : Mr.V.Panneerselvam,<br>for M/s.C.S.Associates         |
| For R1 and R2  | : Mrs.S.Srimathy,<br>Special Government Pleader.        |
| For R3         | : Mr.V.R.Shanmuganathan,<br>Special Government Pleader. |

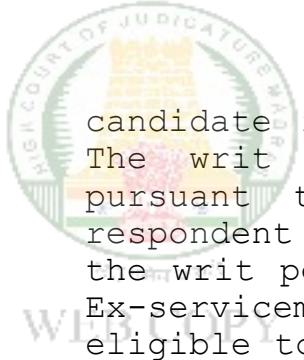
**ORDER**

The recruitment notification No.05/2014, dated 06.08.2014 is sought to be quashed in the present Writ Petition.

2.The claim of the writ petitioner is that the quota provided for the dependents of Ex-Servicemen was taken away in the impugned recruitment notification dated 06.08.2014. Thus, the petitioner is constrained to move the present Writ Petition.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The learned counsel appearing for the writ petitioner vehemently contended that the writ petitioner is a qualified



candidate for appointment to the post of Secondary Grade Teacher. The writ petitioner participated in the process of selection pursuant to the recruitment notification issued by the third respondent for the year 2012-13. The learned counsel appearing for the writ petitioner states that the quota has been provided to the Ex-servicemen. However, the dependents of the Ex-Servicemen are not eligible to avail the quota. Thus, the writ petitioner is deprived of the Ex-Servicemen quota for appointment to the post of Secondary Grade Teacher.

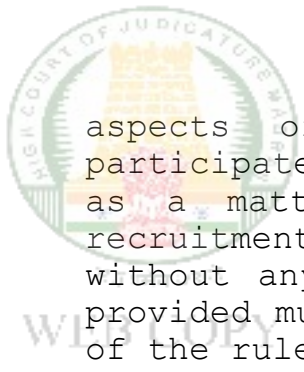
4.The contention of the writ petitioner is that the Government issued G.O.Ms.188, Personnel and Administrative Reforms (Personnel-P) Department, dated 28.12.1976, wherein the Government extended the priority in respect of the dependents of Ex-Servicemen and therefore, the said benefit granted in the year 1976 must be extended to the writ petitioner, so as to avail the benefit of Ex-Servicemen quota for appointment to the post of Secondary Grade Teacher.

5.The learned Special Government Pleader appearing on behalf of the respondents disputed the contentions of the writ petitioner by stating that the quota has been provided for Ex-Servicemen and not to the dependents of the Ex-Servicemen. The notification stipulates that "candidates who claim reservation under the Ex-Servicemen quota should submit necessary certificate in support of their claim. Candidates, who have served in the Armed Forces alone, are eligible to claim under the Ex-Servicemen quota. (The candidate himself should be Ex-Servicemen)".

6.Citing the above priority provided by the Government, the learned Special Government Pleader states that the writ petitioner is a dependent of the Ex-Servicemen and therefore, she is not eligible for appointment to the post of Secondary Grade Teacher under the priority quota. The writ petitioner, therefore, considered under the General category and the writ petitioner had not secured the required cut off mark. Thus, she was not selected.

7.Regarding the selection, it is stated that the writ petitioner appeared for the Tamil Nadu Teacher Eligibility Test-2013. After awarding weightage marks, she secured total marks of 65.37%. As she did not secure the eligible cut off marks after certificate verification, she was not selected for the post of Secondary Grade Teacher. Thus, the writ petitioner has filed this Present Writ Petition.

8.This Court is of the considered opinion that priority for appointment is a concession. Priority for appointment can never be claimed as a matter of right. Priority provided by the Government by way of policy for appointment cannot be sought as a rule of reservation in force. The rule of reservation is independent and is to be implemented mandatorily. However, priority is given considering the job profile, nature of the appointment and other

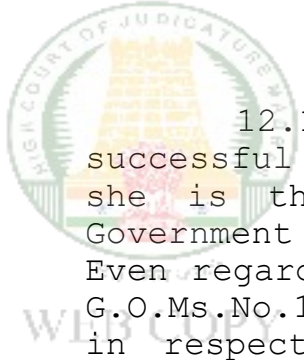


aspects of the employment details. A candidate, who has participated in the process of selection, can never claim priority as a matter of right. If the priority is provided in the recruitment notification, the same can be extended to the candidates without any violation or deviation. In other words, the priority provided must be implemented scrupulously and without any violation of the rules in force.

9. Providing larger number of priority for appointment, undoubtedly, is violative of Articles 14 and 16 of the Constitution of India. If the priority exceeds limit, then it infringes the rights of meritorious candidate, who all are aspiring to secure the public employment through open competitive process. Thus, the State must restrict the priority, so as to adhere to the constitutional principles. Equal opportunity in public employment is the constitutional mandate. The large number of persons, who are all aspiring to secure the public employment, must be provided with an opportunity to participate in the open competitive process. In the event of providing priority to a larger extent, undoubtedly, the same will prejudice the constitutional rights of these eligible candidates to secure the employment on merits.

10. That apart, providing more priority and appointment to the candidates with less merit will affect the efficiency level in public administration. Thus, the State while providing priority in employments as well as quota in employments must ensure that the efficiency in public administration as well as merit to be adopted in the selection process, which will not be compromised. In other words, neutralising the meritorious should cause damage to the efficiency level in public administration. When Constitution itself provides that efficient administration must be a policy of the State, then, the State must ensure that such efficiency is maintained even in the selection of process, more specifically, by providing in matters relating to priority. Undoubtedly, rule of reservation is to be implemented. There cannot be any discrimination in implementing the rule of reservation. However, providing priority quota on various aspects may not have much relevance and only in the event of some injustice, such priority categories are to be provided and not otherwise.

11. This Court is of the considered opinion that the priority categories if exceeds, then the meritorious appointments are minimised. In the event of minimising the meritorious appointments, then the efficiency in appointment as well as in administration will be reduced. Thus, the authorities competent as well as the State must ensure that the priority or quota is provided within the reasonable level and it should not affect the meritorious candidates, so as to uphold the constitutional rights of all other eligible candidates, who are all awaiting for public employment through open competitive process.



12. In the present case on hand, the writ petitioner was not successful in the process of selection. Her only grievance is that she is the dependent of the Ex-Servicemen and therefore, the Government Order issued in the year 1976 must be given effect to. Even regarding the Government Order cited by the writ petitioner in G.O.Ms.No.188, it is stated that the Government Order is applicable in respect of the candidates, sponsored through the Employment Exchange and there is no mention in respect of the recruitments made through the selection by the Recruitment Board. The impugned notification is a open competitive process and the Teacher Recruitment Board issued the said notification. Therefore, the said G.O.Ms.No.188, dated 28.12.1976 is not applicable as far as the present notification is concerned.

13. Under these circumstances, the writ petitioner is not entitled to get appointment and the notification challenged in the present Writ Petition deserves no interference. Further, the notification was issued during the year 2013 and the process of selection had completed long back. Thus, no further consideration is required in this Writ Petition. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar (CS )

To

1. The Secretary to Government,  
State of Tamil Nadu,  
School Education Department,  
Secretariat, Chennai-600 009.
  2. The Director of Elementary Education,  
Chennai-06.
  3. The Teachers Recruitment Board,  
Represented by its Member Secretary,  
4<sup>th</sup> Floor, E.V.K. Sampath Maaligai,  
DPI Compound, College Road,  
Chennai-6.
- +1 CC to Mr.V.PANNEER SELVAM, Advocate ( SR-69082[F] dated 17/06/2019 )  
+1 CC to SPL GP ( SR-69278[F] dated 17/06/2019 )

**W.P (MD) No.16387 of 2014**  
**14.06.2019**