



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.12272 of 2014

and

M.P. (MD) .No.1 of 2014

WEB COPY

M.Nithya

... Petitioner

-Vs-

1.The State of Tamil Nadu

Rep by its Secretary to Government,
School Education Department,
St.George Fort, Chennai-9.

2.The Chairman,

Teachers Recruitment Board,
4th Floor, EVK Sampath Maligai,
DPI Compound,
College Road,
Chennai-06.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to consider the petitioner for appointment to the post of Secondary Grade Teacher on par with the others, who have cleared Teacher Eligibility Test in the year 2012 and were appointed by the respondents, without adherence to the revised criteria contained in G.O.(Ms).No.71, dated 30.05.2014 within the time stipulated by this Court.

For Petitioner

: Mr.R.Rajaraman

For R1

: Mrs.S.Srimathy,

Special Government Pleader.

For R2

: Mr.V.R.Shanmuganathan,

Special Government Pleader.

ORDER

The relief sought for in the present Writ Petition is for a direction to direct the respondents to consider the petitioner for appointment to the post of Secondary Grade Teacher on par with the others, who have cleared Teacher Eligibility Test in the year 2012 and were appointed by the respondents, without adherence to the revised criteria contained in G.O.(Ms).No.71, dated 30.05.2014 within the time stipulated by this Court.

2.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner is a meritorious candidate, who participated in the Teachers Eligibility Test of the year 2012 and scored 93 marks. The persons, who secured



lesser marks in the Teachers Eligibility Test, were appointed. Therefore, the writ petitioner is to be considered for appointment to the post of Secondary Grade Teacher.

3. The learned counsel appearing on behalf of the writ petitioner reiterated that the writ petitioner is a meritorious candidate and secured 93 marks and the candidates, who secured lesser marks in Teachers Eligibility Test, were appointed as Secondary Grade Teacher. Thus, the Writ Petition deserves to be allowed.

4. The learned Special Government Pleader appearing on behalf of the Teachers Recruitment Board made a submission that the writ petitioner undoubtedly is eligible for appointment to the post of Secondary Grade Teacher. The writ petitioner declared as pass in the Teachers Eligibility Test, as she secured 93 marks and the minimum eligible marks is 90. Thus, the writ petitioner was considered as eligible candidate. However, the writ petitioner was not selected for appointment to the post of Secondary Grade Teacher.

5. The learned Special Government Pleader appearing on behalf of the respondents further made a submission that validity of the Government Order issued in G.O.Ms.No.71, School Education (TRB) Department, dated 30.05.2014 was considered by the Hon'ble Supreme Court of India in Civil Appeal No.10700 of 2016 and the Hon'ble Supreme Court of India upheld the validity of the Government Order issued in G.O.Ms.No.71, dated 30.05.2014 and the relevant paragraphs are extracted hereunder:-

"42. The contention that different Boards of Examination have different standards and the examiners who evaluate the scripts are in some more liberal than others and that the candidates who acquitted qualifications decades back had to suffer strict evaluation as compared to the candidates who have qualified in the recent past facing liberal evaluation criteria, are all hypothetical arguments without any pleading and supporting material disclosed in the Writ Petitions. As noted earlier, weightage of marks for academic performance and TET fixed vide G.O.(Ms)No.252, dated 05.10.2012 continues to be the same even after issuing G.O.(Ms)No.71, dated 30.05.2014. Having taken up the examination as per G.O.(Ms)No.252, the appellants cannot challenge the award of weightage for the distribution of marks for academic performance with reference to actual marks secured by each candidate. The appellants are not justified in challenging every rational decision taken by the respondents to make the process more fair and reasonable merely because the outcome does not favour the limited individual interests of the appellants.



43. The Madras High Court rightly rejected the challenge to G.O.(Ms)No.25, dated 06.02.2014 and G.O.(Ms) No.71, dated 30.05.2014, holding that as per the NCTE Guidelines, the State Government has the power to grant relaxation on the marks obtained in the TET for the candidates belonging to reserved category and the same is affirmed. The Madurai Bench did not keep in view the NCTE Guidelines and the power of the State Government to grant relaxation in terms of their extant reservation policy and erred in quashing G.O.(Ms)No.25 dated 06.02.2014 and hence the same is liable to be set aside.

44. The appeals filed by the State Government are, accordingly, allowed and the impugned judgment of the Madurai Bench is set aside. The impugned judgment of the Madras Bench of the High Court is affirmed and all the appeals preferred by the unsuccessful candidates are dismissed."

6. The learned counsel appearing on behalf of the writ petitioner states that the Government Order was upheld with the perspective effect and therefore, the selection of the year 2012 can be affected and consequently, the writ petitioner is entitled for appointment to the post of Secondary Grade Teacher.

7. Appointments can never be claimed as a matter of right. Undoubtedly, all appointments are to be made strictly in accordance with the recruitment rules in force. Mere eligibility would not confer any right on the candidate to seek appointment to a particular post. Participation in the process of selection is one aspect of the matter and appointment is the another aspect of the matter. Even at the time of selection, such competent authorities found any illegality, then also they can cancel the selection.

8. In the present case on hand, the writ petitioner was undoubtedly eligible for appointment to the post of Secondary Grade Teacher and mere eligibility would not confer any right to claim appointment to a particular post.

9. The learned counsel appearing on behalf of the writ petitioner states that the persons, who secured lesser marks in the Teachers Eligibility Test, were appointed.

10. In such an event if any illegality or irregularity, mal practices or corrupt activities are established in the Writ Petition, then alone, the High Court can quash the selection list and not otherwise.

<https://hcservices.ecourts.gov.in/Inservices> 11. In the present Writ Petition, no such appointments have been challenged nor the selection process has been challenged and therefore, this Court cannot interfere with the appointments



already made, pursuant to the selection of the year 2012. Contrarily, the writ petitioner claims that she has secured 93 marks in Teachers Eligibility Test and the candidates, who secured lesser marks in Teachers Eligibility Test, were appointed. Selection as a whole is to be considered for the purpose of appointment. Mere securing more marks in Teachers Eligibility Test alone is not a criteria for selection and appointment to the post of Secondary Grade Teacher.

12. In the present Writ Petition on hand, the writ petitioner has not established any mal practice or corrupt activities nor any such order of appointment issued in favour of any other candidates is challenged. This apart, no such candidates are impleaded as party respondents in the present Writ Petition. In the absence of any particular, this Court cannot interfere with the process of selection made in the year 2012 and further, the appointed candidates are already in service for the past about 7 years.

13. This being the factum, this Court is not inclined to consider the relief as such sought for in the present Writ Petition. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Secretary to Government,
State of Tamil Nadu,
School Education TRB Department,
Fort St. George, Chennai-9.

2. The Secretary,
Tamil Nadu Teachers Recruitment Board,
E.V.K. Sampath Maligai, DPI Compound,
Chennai.

+1 CC to M/s. R. RAJARAMAN, Advocate SR-76516.

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