



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2019

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P. (MD) No. 13380 of 2014

R. Lakshmi

... Petitioner

-Vs-

1. The State of Tamil Nadu,
Represented by its Secretary,
School Education Department,
Secretariat, Chennai.

2. The Chairman,
Teachers Recruitment Board,
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 Certiorari Mandamus, calling for the records relating to the impugned proceedings issued by the second respondent in his proceedings Nil dated Nil (published through internet on 10.08.2014) and to quash the same as illegal and consequentially to direct the respondents to provide priority for Ex-servicemen category and consequently, consider the petitioner for the appointment to the post of B.T. Assistant (Tamil) under the Ex-servicemen priority category.

For Petitioner	: Mr. H. Mohamed Imran,
	For M/s. Ajmal Associates.
For R1	: Mrs. S. Srimathy,
	Special Government Pleader.
For R2	: Mr. V. R. Shanmuganathan,
	Special Government Pleader.

ORDER

The impugned order of the second respondent is sought to be quashed in the present Writ Petition.

2. The writ petitioner is the dependant of Ex-servicemen. She participated in the process of selection for appointment to the post of B.T. Assistant (Tamil), knowing the fact that quota / priority had not been provided to the dependants of Ex-servicemen. In spite of that the writ petitioner participated in the process of selection and was unsuccessful.

3. The learned Special Government Pleader appearing on behalf of the respondents states that the writ petitioner was not within the zone of consideration and therefore, she filed a Writ Petition to avail quota for the dependants of the Ex-servicemen, knowing the fact that the priority was not provided under the recruitment conditions.



4. An unsuccessful candidate, after participating in the process of selection, cannot complain that Ex-servicemen quota must be provided to the dependants.

5. This Court is of the considered opinion that priority quota is the discretion of the employer, the Government has to fix priority quota, considering the job profile, nature of the duties and responsibilities and other criterias. Thus, the priority quota cannot be compared with rule of reservation under the Constitution. Priorities are provided to various categories including destitute widow, Tamil scholars, freedom fighters etc. Priority categories are provided under various heads by the Government, considering the job profile. Therefore, such a priority quota can never be claimed as a matter of right by the persons, who are aspiring to secure public employment.

6. Priority is to be decided by the Government and the same should not exceed the permissible limits. In the event of providing large scale priority quota, then constitutional rights of the meritorious candidates to secure public employment are infringed. Undoubtedly, the rule of reservation is implemented to the extent of 69 % in the State of Tamil Nadu. Thus, adding further rule of reservation under the head of priority will defeat the very equality clause enunciated in the Constitution.

7. The Hon'ble Supreme Court of India has also made clear that reservation should be framed in such manner without affecting the equal opportunity for public employment. Thus, the priority quota cannot be claimed as a matter of legal right and wherever, such priority quota is notified by the Government in the recruitment notification, then alone the eligible candidates are entitled to avail quota and not otherwise. This apart, the writ petitioner participated in the process of selection of the year 2013-14 and at this length of time, the relief of granting such priority quota to the dependants of Ex-servicemen, which was not contemplated in the recruitment conditions during the relevant point of time, cannot be considered for the purpose of appointing the writ petitioner.

8. Accordingly, this Writ Petition is devoid of merits and the same stands dismissed. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Secretary, State of Tamil Nadu,
School Education Department, Secretariat, Chennai.
2. The Chairman, Teachers Recruitment Board, College Road, Chennai-6.

W.P. (MD) No.13380 of 2014

09.07.2019 (2/2)