



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.16865 of 2014
and
M.P. (MD) .Nos.1 and 2 of 2014

T.Karthikeyan

... Petitioner

Vs.

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

... Respondent

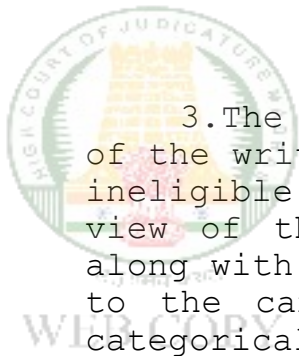
PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned result dated 27.08.2014 published in the Official Website of the respondent in respect of petitioner's selection to the post of Secondary Grade Teacher and quash the same as illegal and consequently directing the respondent to appoint the petitioner to the post of secondary Grade Teacher pursuant to the Teacher Eligibility Test conducted by the respondent dated 17.08.2013.

For Petitioner : Mr.M.A.Palanichamy
For Respondent : Mr.V.R.Shanmuganathan
Special Government Pleader

ORDER

The order of rejection dated 27.08.2014 rejecting the candidature of the writ petitioner as ineligible, is under challenge in the present writ petition.

2.The writ petitioner, pursuant to the Recruitment Notification for appointment to the post of Secondary Grade Teacher submitted his application and participated in the process of selection. The writ petitioner has passed the Teachers Eligibility Test also. Thus, the learned counsel for the writ petitioner states that the writ petitioner is fully qualified for appointment to the post of Secondary Grade Teacher.



3.The learned counsel for the respondent opposed the contention of the writ petitioner by stating that the writ petitioner was found ineligible for appointment to the post of Secondary Grade Teacher in view of the Recruitment Rules as well as the instruction issued along with the brochure to the candidates. The instructions supplied to the candidates, who participated in the process of selection categorically enumerates that *"If the Candidate is differently abled (Ortho only eligible), he/she should shade the appropriate circle."* Thus, the writ petitioner, who is a visually impaired candidate, is ineligible for appointment to the post of Secondary Grade Teacher. Thus the order impugned was passed rejecting the candidature of the writ petitioner.

4.This court is of the considered opinion that the differently abled persons are definitely abled for a particular job profile. The suitability is a ground which is to be considered with reference to the job profile as well as the nature of the duties and responsibilities prescribed for a particular post or cadre. Thus, nobody can say that eligibility or ineligibility which is a corresponding concept should be applied for the purpose of selecting the candidates.

5.Abled and differently abled is a concept where a person may be abled in certain circumstances to perform a particular job profile and a person may be differently abled to perform a particular job profile. However, the disability is an aspect where the employer should consider based on the nature of the duties and responsibilities attached to a particular post. under these circumstances, the employer is well within its powers to prescribe certain terms and conditions for the purpose of providing appointment to the differently abled persons. In the present case the Government had taken a policy decision not to provide appointment to the post of Secondary Grade Teacher as far as the visually impaired candidates are concerned. There may be several reasons for providing such restrictions as it may not be possible for those visually impaired persons to take class in the classroom wherein more than 50 to 60 students will be listening the Teacher. There may be other reason where the profession of teaching may not be effectively performed in a class room in the presence of the students by the visually impaired person. However, these visually impaired are suitable for many number of other posts in the Government and the writ petitioner is also entitled to secure public employment to any other post through open competitive process.

5.Under these circumstances rejection of the writ petitioner for appointment to the post of Secondary Grade Teacher is in consonance with the terms and conditions of the instructions provided to the candidates along with the application form. when the writ petitioner was aware of the condition, he cannot now turn around and filed a writ petition seeking appointment for the post of Secondary Grade Teacher. Thus, the writ petitioner has to



participate in the process of selection wherever the visually impaired person is suitable as per the Recruitment Rules in force. This being the principles to be considered, the order of rejection is in consonance with the instructions and the rules issued by the respondent employer and there is no infirmity as such. However this court wishes the writ petitioner to secure employment in any one of the suitable post by participating in the process of selection if any notified.

6.With the above observations, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar

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