



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P.(MD).No.3477 of 2014

V.Muthuraj

... Petitioner

-Vs-

1.State of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
Secretariat, Chennai-0.

2.The Director,
Directorate of School Education,
DPI Complex, College Road,
Chennai-6.

3.The Chairman,
Teachers Recruitment Board,
4th Floor, E.V.K. Sampath Maligai,
College Road, Chennai-6.

4.The District Elementary Education Officer,
Virudhunagar. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 2nd respondent on 07.08.2013 in his proceedings Na.Ka.No.54629/C3/E2/13 and quash the same and consequently direct the 2nd respondent to appoint the petitioner in any non-teaching post in the Education Department forthwith.

For Petitioner : Mr.K.Muthumalai

For Respondent : Mrs.S.Srimathy
Special Government Pleader
(for R-1, 2 and 4)

Mr.VR.Shanmuganathan
Special Government Pleader
(for R-3)



ORDER

The order of rejection dated 07.08.2013, rejecting the claim of the writ petitioner to consider the marks obtained by him in the recruitment process conducted for the teaching post for the purpose of appointing him in a non-teaching post, is under challenge in the present writ petition.

2.The writ petitioner states that he passed B.Sc., Degree in Mathematics from Madurai Kamaraj University and passed B.Ed., Degree in May 2000 and he registered his name in the Employment Exchange. The writ petitioner claims that he belongs to backward class community and suffering from hearing impairment between 60% and 70% and accordingly he was classified as a differently abled person. The writ petitioner participated in the recruitment process conducted by the Teachers Recruitment Board for appointment to the post of Graduate Teacher. The writ petitioner was called for certificate verification through communication, dated 23.10.2007. However, the writ petitioner was not within the zone of consideration and accordingly, he was not selected and appointed.

3.Consequently, the writ petitioner set out the claim, on the ground that the petitioner must be considered for appointment to a non-teaching post in Education Department. The learned counsel appearing on behalf of the writ petitioner states that earlier petition filed in W.P.(MD)No.9023 of 2010 and an order was passed by this Court on 30.04.2013 to consider the claim of the petitioner. This Court had made an observation that the respondents 1 and 2 may consider the petitioner's name for absorption in any non-teaching posts in the Educational Department based upon the marks secured by him in the recruitment process conducted for the post of Graduate Teacher in Mathematics, if there is no other legal impediment to do so and respondents 1 and 2 may consider the petitioner's case on the above terms, within a period of three months from the date of receipt of a copy of this order.

4.Relying upon the above order, the learned counsel for the writ petitioner states that the case of the petitioner ought to have been considered for appointment to a non-teaching post. Thus, the respondents have violated the earlier orders passed by this Court on 30.04.2013.

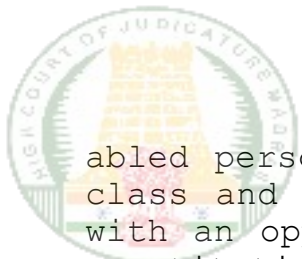
5.The learned Special Government Pleader appearing on behalf of the respondents opposed the contentions by stating that the process of selection is conducted any for the teaching post by the Teachers Recruitment Board and the same is totally unconnected with the appointment to the non-teaching post. The recruitment to the



non-teaching post are done through the Tamil Nadu Public Service Commission and for teaching post, it is done through the Teachers Recruitment Board. Thus, the marks secured by the writ petitioner in a teaching post cannot be considered for the purpose of granting appointment to the non-teaching post, which is impermissible with reference to the recruitment rules in force. This apart, this Court has directed the respondents to consider the case, if there is no impediment. When this Court, has categorically stated that only in the event of no impediment, the case of the writ petitioner has to be considered. The impugned order states that there is an impediment and as per the rules in force. The marks obtained for teaching post cannot be taken into account for the purpose of providing appointment to a non-teaching post. In the presence of the impediment with reference to the recruitment rules in force., the case of the writ petitioner cannot be considered. Thus, the arguments advanced by the learned counsel appearing on behalf of the writ petitioner that the earlier order of this Court has not been complied with cannot be accepted. In fact, the teaching post is entirely different and the process of recruitment qualification and the method of selection are in no way connected with the process of selection that has been conducted for appointment to the non-teaching post. This being the distinction and the difference in the matter of selection and appointment to the teaching and non-teaching posts, the writ petitioner cannot claim that the marks secured by him in the teaching post must be taken into account for the purpose of providing appointment in a non-teaching post.

6.If at all, the writ petitioner has to participate in the process of selection for non-teaching and if he was selected under the priority quota or differently abled persons, then only there can be appointed and not otherwise. In such circumstances, if one case is considered by the Courts based on certain misplaced sympathy or leniency, then the same will be a wrong precedent and all other similarly placed persons will approach the Court for the purpose of granting such relief. Thus, any such leniency or misplaced sympathy, even by the Court would be in violation of the recruitment rules in force and will become a wrong precedent, so as to enable all other similarly placed persons, to make such claims.

7.Equal opportunities in a public employment is the constitutional mandate. Even amongst the differently abled persons, equal opportunities must be provided to participate in the process of selection and it is not as if the writ petitioner alone is the differently abled persons in this country. Even lakh and lakh of differently abled persons are having different kinds of disability and are struggling hard to get public employment. Under these circumstances, the constitutional rights of all those differently abled persons must be protected by the Court and amongst the differently abled persons qualified and eligible persons must be appointed or through the open competitive process. The differently



abled persons having some disability must be treated as homogenous class and that amongst the class and the persons must be provided with an opportunity for selection and appointment. This being the constitutional mandate, this Court is of the opinion that Court cannot be carried away, if such leniency for the purpose of granting the relief of appointment to the differently abled persons or even to consider his case is in violation to the recruitment rules in force. This being the principles, this Court is of the opinion that there is no infirmity as such, in respect of the order impugned and the writ petitioner, if any notification is issued, he has to participate and secure employment only on merits under the priority quota applicable to him with reference to the recruitment only.

8. Accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar (CS)

sjj

To

1. The Secretary to Government,
School Education Department,
Secretariat, Chennai-0.
 2. The Director,
Directorate of School Education,
DPI Complex, College Road,
Chennai-6.
 3. The Chairman,
Teachers Recruitment Board,
4th Floor, E.V.K. Sampath Maligai,
College Road, Chennai-6.
 4. The District Elementary Education Officer,
Virudhunagar.
- +1 CC to M/s.K. MUTHU MALAI, Advocate (SR-82621[F] dated 21/08/2019

W.P. (MD) .No.3477 of 2014

KK/SAR/03.09.2019/4P-6C/

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