



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.08.2019
CORAM:

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

W.P.(MD).No.5251 of 2015
and
M.P.(MD)Nos.2 and 3 of 2015

G.Subashini

... Petitioner

-Vs-

1.The Government of Tamil Nadu,
Rep. through its Director of School Education,
College Road, Chennai-600 006.

2.The Teachers Recruitment Board,
Government of Tamil Nadu,
E.V.K.Sampath Maligai,
DPI Compound, College Road,
Chennai-600 006.

3.The District Employment Officer,
Department of Employment and Training,
Pudukkottai District, Pudukkottai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus, Certiorari Mandamus, calling for the records pertaining to the Notification / Advertisement bearing No.07/2014, dated 13.10.2014 issued by the 2nd respondent and quash the same as arbitrary, illegal and violates the Articles 14 and 309 of the Constitution of India and consequently directing the respondents to give adequate representation for the candidates from the Family of Serving Defence Personnel under priority category for the post of Computer Science Instructor for the Government Higher Secondary School functioning under the 1st respondent.

For Petitioner	: Mr.R.Aravindan
For Respondents	: Mr.V.R.Shanmuganathan Special Government Pleader

ORDER

The notification for direct recruitment to the post of Computer Instructor issued by the Teachers Recruitment Board, in proceeding, dated 13.10.2014, is under challenge in the present writ



petition. The consequential direction is sought for to provide adequate representation for the candidates from the Family of Serving Defence Personnel under priority category for teaching post.

2.The learned counsel appearing on behalf of the writ petitioner states that the petitioner has completed M.Sc. Degree in Computer Science and she has completed B.Ed., also. The writ petitioner states that she is fully qualified for appointment to the post of Computer Instructor in the Education Department. Pursuant to the notification, dated 13.10.2014, the name of the writ petitioner was sponsored for selection. The writ petitioner also participated in the process of selection and further her certificates were also verified. Even after the certificate verification, the case of the writ petitioner was not considered for appointment to the post of Computer Instructor. The learned counsel for the writ petitioner states that the Government has taken a decision to provide priority in respect of the Dependants of the Serving Defence Personnel and therefore, under the said priority category, the case of the writ petitioner ought to have been considered by the competent authorities. Thus, the writ petitioner was denied the benefit of selection under the priority category for the dependants of the working defence personnel.

3.The learned Special Government Pleader appearing on behalf of the respondents states that the general priority granted by the Government may not be applicable for all recruitments, while the priority categories report provided by the Government for various categories. However, considering the job profile, the competent authority has taken a decision and accordingly, recruitment notification are issued. Thus, the selection and appointment is to be done strictly in accordance with the terms and conditions of the recruitment notification. As per the recruitment notification, dated 13.10.2014, no such priority was granted to the Dependants of the Serving Defence Personnel. In the absence of any such priority cannot be granted as claimed by the writ petitioner. Under the general Government order, which was issued commonly and such an order cannot be applicable in respect of the teaching posts.

4.It is further contended by the learned counsel for the respondents that the writ petitioner had participated in the process of selection and was unsuccessful. After becoming unsuccessful, she has chosen to file the present writ petition. The writ petitioner had participated by accepting the terms and conditions of the recruitment notification. Once the conditions in the notifications are accepted by the candidate and after participating in the process of selection, a failed candidate cannot challenge in the notification itself.

5.The learned counsel for the writ petitioner states that the case of the writ petitioner was sponsored by the Employment



Exchange for the post of Computer Instructor under Dependants of Serving Defence Personnel priority category. She was called for certification verification on 01.03.2015. Thus, the case of the writ petitioner must be considered under the priority category.

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6.The sponsoring of the name of the writ petitioner by the District Employment Exchange would not confer any right on the writ petitioner to claim appointment under the priority category and sponsorship would not confer any legal right for appointment. Sponsorship is based on the employment registration seniority. The selection is an entirely different aspect which all are to be done by the competent authorities in accordance with the terms and conditions of the recruitments. Thus, mere sponsorship of the name of the writ petitioner by the District Employment Exchange cannot be a ground to grant priority, which is otherwise not contemplated under the recruitment notification. This being the principles to be followed, the statement made in the counter in this regard, is of no avail to the writ petitioner.

7.This Court is of the considered opinion that providing large extent of priority is not in consonance with the constitutional rules. Equal opportunity in public employment is a constitutional mandate. All eligible persons must be provided with an opportunity to participate in the process of selection. If more priority is provided for many number of candidates, then the opportunity of providing equal opportunity to all eligible candidates are denied. In other words, if the priority categories are exceeding, then the merit candidates will not get an opportunity to get public employment. Lakh and Lakhs of youth of the great nations are striving hard to secure public employment through open competitive process. The rule of reservation as per the constitution is to be provided. However, priority category, cannot be considered as a constitutional mandate. Priority is provided by the Government as a policy, considering certain circumstances and considering the job profile as far as the teaching posts are concerned. The priority is not granted in respect of the dependants of the serving defence personnel in our country. Large number of defence personnel under the Ministry of Defence are serving. It is proud to record that the Indian Army is the largest army in the world. Thus, lakh and lakhs of soldiers and other cadre officials are working in the Indian Army. If such priority is provided to the dependants of the serving defence personnel, then a considerable number of posts will be taken away. Under these category which will amount to denial of equal opportunities to all other eligible candidates who all are longing to secure public employment through open competitive process. Thus, the Government also must be cautious while granting priority. The priority cannot be granted in a routine manner. Priority cannot be granted so as to affects constitutional rights of all other eligible candidates. Infringement of constitutional rights is also an important factor to



be considered, while granting priority to various categories in appointments are to be made and all these aspects are to be taken into account while issuing notification.

8.In the present case on hand, the notification is unambiguous that no such priority can be provided to the dependant of the serving personnel of the defence force. In the absence of any such priority in the recruitment notification, the writ petitioner cannot claim any priority and rightly the claim of the writ petitioner was rejected. The writ petitioner has to be secured only by public employment on merits and if she is otherwise found eligible under the rule of reservation and not otherwise.

9.This being the legal principles to be followed, the writ petitioner has not established any acceptable legal grounds for the purpose of quashing of the entire notification which was already concluded and the selected candidates were appointed in service for the past 4 ½ years.

10.Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Director of School Education,
College Road, Chennai-600 006.

2.The Teachers Recruitment Board,
Government of Tamil Nadu,
E.V.K.Sampath Maligai,
DPI Compound, College Road,
Chennai-600 006.

3.The District Employment Officer,
Department of Employment and Training,
Pudukkottai District, Pudukkottai.

+1 CC to M/s.R.ARAVINDAN, Advocate SR-84091

W.P. (MD) .No.5251 of 2015
29.08.2019

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