



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.7207 of 2013

and

M.P. (MD) No.2 of 2013

R.Subbulakshmi

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.. Petitioner

Vs

1.The State of Tamilnadu
represented by its Secretary,
Education Department,
Secretariat,
Chennai.

2.The Chairman,
Teachers Recruitment Board,
DPI Compound,
College Road,
Chennai.

3.The District Welfare Officer,
Sivagangai District,
Sivagangai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating impugned notification issued by the second respondent vide Advt.No.4/2010 dated 29.03.2010 in so far as it relates to non providing reservation under Destitute Widow category ad the consequential rejection order issued by the second respondent in his proceedings in Rc.No.3067/A6/2011 dated 03.01.2013 and quash the same as illegal and consequentially to direct the respondents to consider the petitioner for appointment to the post of Assistant Professor (Tamil).

For Petitioners

: Mr.H.Mohammed Imran
for M/s. Ajmal Associates

For R1

: Mr.K.Mu.Muthu,
Additional Government Pleader

For R2

: Mr.V.R.Shanmuganathan
Special Government Pleader

**ORDER**

The order of rejection rejecting the claim of the writ petitioner for selection and appoint her to the post of Professor under the Category of Destitute Widow in proceedings dated 29.03.2010 as well as 03.01.2013 are under challenge in the present writ petition.

2.The writ petitioner passed P.G., degree in Tamil and completed M.Phil in Tamil during the year 1996. The writ petitioner also cleared the National Eligibility Test conducted by the University Grants Commission. The writ petitioner lost her husband during 1998 and was issued with a Destitute Widow certificate by the competent authority. Recruitment notification was published by the second respondent in Advertisement No.4/2010 dated 29.03.2010, inviting applications from the eligible candidates for appointment to the post of Assistant Professor under the Tamilnadu Collegiate Educational Service for Government Arts and Science Colleges-2010. The petitioner submitted her application for selection to the post of Assistant Professor.

3.The grievances of the writ petitioner is that though she is a Destitute Widow, she was not granted the benefit of priority granted to the destitute widow. The learned counsel for the petitioner states that a priority is granted to the destitute widow and the said benefit was not extended to the writ petitioner.

4.The learned counsel appearing on behalf of the respondent states that the priority for destitute widow is not applicable for appointment to the post of Assistant Professor. Such a priority is provided only in respect of the posts which were filled up through the District Employment Exchange and not through the open competition process. The post of Assistant Professor are filled up by way of open competition process and by conducting written examinations. The post which is having higher responsibility and higher post and carrying UGC Scale of pay, cannot be filled up by giving priority of Destitute Widow and when appointments are granted through District Employment Exchange, the benefit of priority for Destitute Widow is being provided. The said decision was clarified in the impugned order dated 03.01.2013 which reads as under:

"Government in G.O.Ms.No.188 P & AR(R) Department dated 28.12.1976 have specified certain categories of priority in the matter of employment made through Employment Exchange. The Destitute Widow is among the priority category prescribed therein. In the instant case of selection to the post of Assistant Professor in Tamil done by calling applications through open advertisement and conduct of certificate verification and interview followed by merit cum communal roster. As such the question of giving preference to the category of Destitute Widow in the direct recruitment of Assistant Professor does not arise. Further Government in Lr.No.76183/R/2002-



2 P & AR (R) Department dated 17.02.2003 issued orders that the categories of priorities specified in the Government order (G.O.Ms.No.188P & AP(R) Department dated 28.12.1976 are only for sponsoring the names in regard of employment assistance through employment exchanges. Therefore, the above said order shall be applicable only if the special rules to the Post to which recruitment is proposed to be made specifies that the appointment shall be made through Employment Exchange".

5.This Court is of the opinion that the writ petitioner has already completed P.G., Degree as well as M.Phil., and passed the National Eligibility Test. She is aspiring to secure a post of Assistant Professor in a Government Arts and Science College. The post of Assistant Professor normally granted by the Government by way of policy only in respect of the cadre of Grade-III and Grade-IV services. In respect of Grade-I and Grade-II services, the selection and appointment are made only through the open competitive process and such a priority cannot be claimed as a matter of right.

6.If at all a policy is in existence, the petitioner is at liberty to avail the same. However, in the absence of any such policy of priority to Destitute Widow category, the Court cannot extend the benefit to the writ petitioner for providing appointment to the post of Assistant Professor. Such policy decision are to be taken only by the Government and Court cannot grant such benefit of priority to the Destitute Widow in the matter of appointment to the post of Assistant Professor.

7.This being the principles to be followed, the writ petitioner has not established any acceptable legal ground for the purpose of granting appointment to the post of Assistant Professor in a Government Arts and Science College under the priority category of Destitute Widow. The writ petitioner has to secure appointment to the post of Assistant Profession only by participating in the process of selection in accordance with the notifications and the terms and conditions issued thereon. This writ petition is devoid of merits.

8.Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Secretary,
State of Tamilnadu,
Education Department,
Secretariat,
Chennai.

2.The Chairman,
Teachers Recruitment Board,
DPI Compound,
College Road,
Chennai.

3.The District Welfare Officer,
Sivagangai District,
Sivagangai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate SR-67926.

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and
M.P. (MD) No.2 of 2013
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CS: (24/06/2019) 4P 5C