

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.01.2020
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
W.P No.559 of 2020
and W.M.P No.657 of 2020

A.Surulimuthu

Petitioner

vs.

The Chairman,
Teacher Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Campus, College Road,
Chennai - 600 006.

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent to consider the petitioner's representations dated 06.01.2020 which was acknowledged by the Respondent and to comply with the Genuine Request made herein within the Specific Period stipulated by this Court.

For Petitioner : Mr.V.Ramana Reddy

For Respondent : Mr.C.Munusamy
Special Government Pleader

O R D E R

This writ petition has been filed for issuance of writ of mandamus directing the respondent to consider the representations of the petitioner and to grant appointment to the petitioner in the post of Post Graduate Assistant in Tamil.

2.The case of the petitioner is that the petitioner is physically challenged and he was affected by Locomotive Disability (LD). The petitioner also belongs to the Most Backward Class Community. The Teachers Recruitment Board called for applications to fill up the posts of Post Graduate Assistant. The petitioner offered himself as a candidate and he was called for the written examination. The petitioner secured 92 marks in the examination. However, in the provisional

selection list that was published by the respondent, the name of the petitioner was not found and therefore, the present writ petition has been filed before this Court.

3. The learned counsel for the petitioner submitted that, the petitioner will fall within Category III for the persons with disability quota. The learned counsel submitted that in so far as Tamil subject is concerned, the Turn was provided only for GT, BCMW and SCA. The learned counsel submitted that there was no Turn provided for MBC category and therefore, the petitioner must have been considered in General Turn Category. In view of the marks secured by him, the petitioner should be considered for appointment. The learned Counsel submitted that the post remains vacant under this category and therefore, the petitioner can also be considered for the appointment.

4. The learned Special Government Pleader appearing on behalf of the respondent submitted that the notification specifically provided for three seats under Category III under the quota for persons with disability. The learned counsel submitted that MBC did not fall within the said category and therefore the petitioner cannot be considered under MBC Category. The learned counsel further submitted that even if the petitioner is to be considered under the General Turn, the cut off marks was fixed as 96 marks and the petitioner secured only 92 marks. Therefore, it will not be possible to consider the petitioner under General Turn.

5. The learned counsel further submitted that the petitioner cannot be accommodated even if the seat remains unfilled due to non availability of the candidate since Section 27(bbb) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 specifically provides that when the vacancies cannot be filled up due to non availability of a suitable candidate with benchmark disability or for any other sufficient reasons, the vacancies should be carried forward to the succeeding recruitment. Therefore, the learned counsel would submit that when there is such a provision under the Act, the petitioner cannot be accommodated in the said vacancy.

6. This Court has carefully considered the submissions made on either side and also the materials available on record.

7. This Court finds a lot of force in the submissions made by the learned counsel for the respondent. The petitioner is an MBC candidate, who also claim priority as a disabled person. Under the Notification, three seats were allotted under category III which deals with Locomotive disability. Those three seats

were identified as GT, BCMW and SCA. The notification did not provide any reservation for the MBC candidates under this Category. Therefore, the petitioner cannot be considered under this Category as an MBC candidate.

8. The next question is whether the petitioner can be considered as a General Turn candidate. In order to consider the petitioner under this category, the petitioner must have secured the cut off mark. The cut off mark was 96 marks and the petitioner has secured only 92 marks. Therefore, the petitioner cannot be considered even as a General Turn Candidate.

9. The last issue that requires consideration is whether the petitioner can be accommodated in the post which remains vacant. This also cannot be done, in view of the mandate prescribed Under Section 27(bbb) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 which specifically provides that the vacancy should be carried forward to the succeeding recruitment.

10. This Court does not find any grounds to grant the relief as claimed by petitioner. Thus the present writ petition is liable to be dismissed. It goes without saying that the petitioner is entitled to participate in the future selection and claim for reservation if the same is provided under the notification.

11. This writ petition is dismissed. Consequently, connected miscellaneous petition is closed. No Costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

1. The Chairman,
Teacher Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Campus, College Road,
Chennai - 600 006.

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+lcc to Mr.V.Ramana Reddy, Advocate sr.4473
+lcc to Government Pleader SR.NO. 5286

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