

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2020

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.1278 of 2020

and

WMP Nos.1536 & 1537 of 2020

P.Unnamalai

..Petitioner

Vs.

1.The State of Tamilnadu,
Rep.by the Principal Secretary to Government,
Department of School Education,
Secretariat, Chennai 600 009.

2.The Director,
School Education Department,
DPI Campus, College Road,
Nungambakkam,
Chennai 600 006.

3.The Teachers Recruitment Board,
Rep.by its Member Secretary,
DPI Campus, College Road,
Nungambakkam,
Chennai 600 006.

..Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned selection list dated 02.01.2020 issued by the 3rd respondent in respect of PG Assistants in Tamil and quash the same, consequently direct the respondents to select the petitioner as PG Assistant in Tamil and appoint her in the said post.

For Petitioner : Mr.M.R.Jothimanian

For Respondents : Mrs.V.Annalakshmi
Government Advocate

ORDER

This Writ Petition has been filed challenging the impugned selection list dated 02.01.2020, issued by the 3rd respondent in respect of the PG Assistants (Tamil) and for a

consequential direction to the respondents to select the petitioner and appoint her in the said post.

2.The third respondent issued a Notification on 12.06.2019, inviting applications through On-line from eligible candidates for direct recruitment to the posts of Post Graduate Assistants/Physical Education Directors, Grade-I, in School Education and other Departments for the year 2018-2019.

3.The petitioner applied On-line for the post of PG Assistant (Tamil) under persons with disability [herein after referred as "PWD") category. The petitioner participated in the written examination and she had secured 94 marks. When the provisional list was published, the name of the petitioner was not found in the list and aggrieved by the same, the present writ petition has been filed before this Court.

4.Mr.M.R.Jothimanian, learned Counsel appearing on behalf of the petitioner primarily raised two grounds in the present writ petition. The first ground that was raised by the learned counsel is that as per the Notification, totally 16 posts were allotted under the category of PWD insofar as Tamil subject is concerned. The petitioner suffers from locomotor disability. The learned counsel by bringing to the notice of this Court the impugned provisional list, submitted that persons who had secured lesser marks than the petitioner have been accommodated under this category. The second issue that has been raised by the learned counsel for the petitioner is that this Court had earlier passed orders in W.P.No.34099 etc., of 2019, dated 09.01.2020, wherein, this Court had directed the 3rd respondent to prepare a fresh provisional selection list by fitting candidates under the general turn only based on their merit and ranks, irrespective of their community and to fit in the candidates under the community quota only if they do not come within the merit category. The learned counsel for the petitioner submitted that by virtue of this direction, the entire complexion of the provisional list will change and persons who were accommodated under the MBC quota in spite of being meritorious, will be considered under the general turn and as a result of the same, there will be consequent vacancies under the MBC category and therefore, the petitioner can be considered in those vacancies based on the marks secured by her in the written test. This alternate argument was raised by the learned counsel for the petitioner if the first issue raised by him is not accepted by this Court.

5.The 3rd respondent has filed a detailed counter affidavit in this case and explained the entire selection process.

6.Mrs.V.Annalakshmi, learned Government Advocate appearing on behalf of the respondents brought to the notice of this Court, the Notification issued by the 3rd respondent. The learned Counsel pointed out that the disability suffered by the petitioner will come under Category-III under PWD reservation. The learned Counsel submitted that this Category-III, will not apply to the MBC candidate as per the Notification and it has only been allotted to GT-1 BCMW-1 SCA-1. The learned counsel further developed her arguments by submitting that if in case the petitioner is considered under the general turn, the marks secured by the petitioner is not enough to consider her under the general turn. To substantiate this submission, the learned counsel brought to the notice of this Court Sl.No.22 in the provisional selection list where the concerned candidate, who was accommodated under this category had secured 105 marks. Therefore, the learned Counsel submitted that the petitioner who has secured lower marks cannot be accommodated under Category-III in the general turn.

7.Insofar as the second issue is concerned, the learned Government Advocate submitted that the 3rd respondent is taking steps to file an appeal against the orders passed by this Court in W.P.No.34099 etc., of 2019, dated 09.01.2020.

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

9.Insofar as the first issue raised by the learned counsel for the petitioner, the same has been sufficiently met by the Government Advocate and there is a lot of force in the submission made by the learned Government Advocate. The marks secured by the petitioner was not enough to bring the petitioner within the general turn and the person, who has been accommodated under general turn in Category-III of persons with disability, has secured 105 marks. Therefore, the first issue that has been raised by the learned counsel for the petitioner is hereby rejected.

10.Insofar as the alternative submission made by the learned counsel for the petitioner is concerned, if the order passed by this Court in W.P.No.34099 etc., of 2019, dated

09.01.2020, is acted upon or is affirmed in the appeal, then consequently there will be vacancies under the MBC category and at that point of time depending upon the marks secured by the petitioner, she can be considered for appointment under the MBC category. Since the 3rd respondent has decided to take up the matter on appeal, no positive directions can be given at this stage. However, the right of the petitioner to be considered under the MBC category is left open and if and when the orders passed by this Court is implemented, at that point of time, the 3rd respondent shall consider the candidature of the petitioner under the MBC quota depending upon the marks secured by the petitioner in the written examination.

This Writ petition is disposed of accordingly, No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Principal Secretary to Government,
State of Tamilnadu,
Department of School Education,
Secretariat, Chennai 600 009.

2.The Director,
School Education Department,
DPI Campus, College Road,
Nungambakkam, Chennai 600 006.

3.The Member Secretary,
Teachers Recruitment Board,
DPI Campus, College Road,
Nungambakkam, Chennai 600 006.

+1cc to Mr.M.R.Jothimanian, Advocate SR.No.12122
+1cc The Government Pleader SR.No.12439

AKM/16.03.2020 /2P-6C/

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