



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.02.2020**

CORAM:

**THE HONOURABLE MR.JUSTICE A.P.SAHI, CHIEF JUSTICE
AND**

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.[MD]No.1161 of 2014

and

M.P.(MD)No.1 of 2014

1.The Teachers Recruitment Board,
represented by its Chairman,
College Road,
Chennai - 600 006.

2.The Government of Tamil Nadu,
represented by its Secretary,
Department of Education,
Chennai - 9.

: Appellants/Respondents

Vs.

Subbulakshmi

: Respondent/Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order passed by this Court in W.P.(MD)No.14624 of 2012, dated 11.01.2013.

Prayer in WP(MD). 14624/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent relating to the Tentative Provisional List of candidates called for certificate verification for the recruitment of the Post Graduate Assistants in Zoology xubject for the year 2011-2012 published on 23.10.2012 and all further proceedings in connection with recruitment for the post of Post Graduate Teachers in the subject of Zoology on the basis of the said list and quash the same and consequently direct the respondents to consider the candidature of the petitioner by including his name in the appropriate place in the said list.

For appellants : Mr.V.R.Shanmuganathan,
Special Government Pleader

<https://hcservices.ecourts.gov.in/hcservices>

: Mr.V.Kannan



JUDGMENT

[Judgment of the Court was delivered by
Subramonium Prasad, J.]

WEB COPY

The State has filed the instant appeal assailing the order, dated 11.01.2019, whereby the learned Single Judge allowed the Writ Petition with a direction to the appellants / respondents to award weightage marks to the respondent / writ petitioner for both experience and seniority of registration in the Employment Exchange to the extent of her eligibility and consider her case for recruitment in the notification of the year 2011-2012 of the Teachers' Recruitment Board calling for application for the post of P.G.Assistant and Physical Education Directors Grade I.

2. The respondent / writ petitioner participated in the selection process notified by the Teachers' Recruitment Board in the year 2011-2012 for appointment to the post of P.G.Assistant and Physical Education Directors Grade I. The respondent / writ petitioner was successful and she was called for certificate verification. In the meantime, the entire selection process was challenged in a batch of Writ Petitions in W.P.Nos.21170 of 2012, etc. batch and a learned Single Judge, by order dated 01.10.2012, set aside the entire selection process and passed directions for re-calculation of the marks, because it was found that certain key answers were wrong. The order passed in the above batch of Writ Petitions is extracted hereunder:

"228. In the result, the writ petitions are allowed in the following terms:

(i) The valuation conducted and the mark lists published for all subjects are quashed.

(ii) The select lists of candidates for all posts (both challenged and non-challenged) under this Notification are quashed.

(iii) The Teachers Recruitment Board shall revalue the answer papers of all subjects as per the correct answers declared herein above.

(iv) After such revaluation, the marks secured by the candidates shall be published in the official website of the respondent Board.

(v) After such publication, the respondent Board shall call the candidates for certificate verification by strictly following the method of selection for non-reserved category and reserved categories as indicated supra.

(vi) It is made clear that candidates to be selected as against the non-reserved category shall not be adjusted against the reserved category.

(vii) The interse seniority of the candidates



selected shall be strictly based on merit namely the marks secured in the selection process and the same shall not be as per the Roster points.

(viii) After making the selection by strictly following the above procedure, the respondent Board shall publish the list of the selected candidates in its official website."

3. In the exercise that was conducted by the Recruitment Board, the cut-off mark for selection was kept at 109 and the persons, who were secured 109 marks and above, were called for certificate verification. The writ petitioner had secured 108 marks and therefore, she was not called for certificate verification.

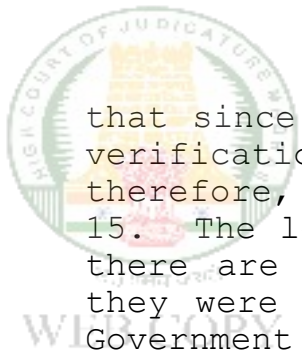
4. The writ petitioner's claim for calculation of weightage marks was not acceded to by the Government for the reason that the weightage marks were to be given only for those candidates, who have been called for certificate verification. Clause 15 of the notification, dated 28.02.2012, which was relied on by the State, reads as under:

"15.Weightage marks: Weightage marks as detailed below will be given after Certificate Verification for the short-listed candidates. These marks will be added to Written Examination marks for preparing the final merit-cum-communal selection list.

		Number of Years	Marks
1	Period of wait after registration in the Professional & Executive Employment Office, Chennai-4	1 to 3 years less than 3 years	1
		3 to 5 years - above 3 years and less than 5 years	2
		5 to 10 years	3
		10 years and above	4
2.	Experience of teaching in 11 & 12 Std. in any recognised School	1 to 2 years	1
		2 to 5 years	2
		5 years and above	3

5. Learned Single Judge has passed the order without appreciating that the weightage marks could not have been given to the respondent / writ petitioner, because it goes contrary to the Regulation 15 (extracted above), as given in the notification. Learned Single Judge, therefore, fell in error in passing the direction to the respondents/appellants to give weightage marks to the petitioner. The State has, therefore, filed this appeal challenging the order of the learned Single Judge.

6. We find that the learned Single Judge has failed to note <https://hcservices.ecourts.gov.in/hcservices/>



that since the petitioner had not been short-listed for certificate verification, she was not entitled to the weightage marks and therefore, the impugned order is completely contrary to Regulation 15. The learned counsel for the writ petitioner would contend that there are several other points which needed to be adjudicated and they were not adjudicated only because of the fact that the State Government had conceded and agreed that they would consider the case of the writ petitioner for awarding weightage marks and instead of complying with the order of the learned Single Judge, the Government has filed the appeal belatedly, that too after filing of the contempt petition for non compliance of the order of the learned Single Judge.

7. We find that the learned Single Judge has not adverted to any other point other than awarding the weightage marks. In view of the above, we set aside the order of the learned Single Judge and remit the matter back to the learned Single Judge permitting the petitioner to raise all other points available to her in law. This writ appeal stands disposed of accordingly. However, there is no order as to costs. Consequently, connected miscellaneous petition is closed.

8. The Office is directed to list the Writ Petition before the learned Single Judge, as per roster. The learned Single Judge is requested to dispose of the Writ Petition, as expeditiously as possible, in view of the fact that the recruitment is of the year 2011-2012.

9. The State may file counter affidavit to the Writ Petition in the meantime, if they so choose.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gcg/cmr
TO

1.The Chairman,
The Teachers Recruitment Board,
College Road,
Chennai - 600 006.

2.The Secretary,
The Government of Tamil Nadu,
Department of Education,

<https://hcservices.tn.nic.in/hcservices/>



3.The Section Officer,
Writ Section,
Madurai Bench of Madras High Court, Madurai.

WEB COPY

W.A.[MD]No.1161 of 2014
24.02.2020

KK/20.03.2020/ 5P- 4C

—