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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2021

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THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 36887 of 2007

C.Durgadevi

... Petitioner

-vs-

1. State of Tamil Nadu,
Represented by its Secretary to Government,
Higher Education Department,
Secretariat, Chennai - 600 009.

2. Teachers Recruitment Board,
Represented by its Chairman,
DPI Complex,
Chennai - 600 006.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to consider the articles published by the petitioner in National Level Magazine and after giving marks in accordance with G.O.Ms.No.146 dated 01.06.2007 issued by the first respondent and on the basis of her meritorious performance in the interview, appoint the petitioner to the post of Lecturer (Economics) under the BC category with due seniority and all other attendant benefits.

For Petitioner : Mr.V.Govardhanan
for M/s.Row and Reddy

For Respondents : Mr.S.Karthikei Balan
Government Advocate for R1
Mr.C.Munusamy
Special Govt. Pleader for R2

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents to consider the articles published by the petitioner in National Level Magazine and after giving marks in accordance with G.O.Ms.No.146 dated 01.06.2007 issued by the first respondent and on the basis of her meritorious performance



in the interview, appoint the petitioner to the post of Lecturer (Economics) under the BC category with due seniority and all other attendant benefits.

2. The petitioner with the qualification of M.Phil in Economics also having passed the National Eligibility Test (NET) in 1990 had been working as Guest Lecturer in Thiru.Vi.Ka.Government Arts College, Tiruvarur from 2000-2001. She claimed that, she has written articles in National Level Magazines in Economics, that were published in the years 2001 and 2002.

3. While so, in the year 2006, the Government of Tamil Nadu proposed to fill up 1020 posts of Lecturers in various Government Colleges, accordingly they issued notification and prospectus, calling for application from the eligible candidates. The petitioner also applied to the post of Lecturer (Economics) and based on which, on 14.07.2007, the certificates of the petitioner were verified, following which, the interview was conducted on 25.09.2007 and the petitioner has also attended the said interview.

4. According to the petitioner, she performed well in the interview and subsequently, when the selection order was issued, she came to know that the petitioner was not selected and subsequently, the petitioner came to know that, the petitioner was not awarded the marks which ought to have been awarded for the articles written by the petitioner published in National Level Magazines in Economics. In this context, the grievance of the petitioner is that, had the marks been awarded to the petitioner for such articles she had written, certainly, the petitioner would have been in better ranking position and definitely she would have been selected. However, without awarding any such marks to the articles she written, since the selection was completed, it resulted that the petitioner was not selected. Therefore, in that context, the Writ Petition has been filed with the aforesaid prayer.

5. Counter affidavit has been filed by the second respondent, where, the learned counsel appearing for the second respondent relies upon the following paragraph:

"5. Method of Selection:

(d) In the event of two or more candidates securing equal marks at the interview, preference shall be given to the candidates with reference to their dates of birth, the one born earlier being given the higher preference.

Since the writ petitioner was junior in date of birth i.e., her date of birth is 21.07.1976 where as the last candidate selected in the BW



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turn date of birth is 02.02.1967 and hence she could not be selected for the post of Lecturer in Economics.

Aggrieved by the non-selection, she filed a writ petition in W.P. No. 36887 of 2007 and seeking direction.

5. I submit that the averment of the writ petitioner C.Durga Devi is that for the article published by her no marks were awarded at the time of certificate verification. Regarding the awarding of weightage marks for Books / Articles, the Certificate Verification Boards has been given instructions to the effect that (i) Articles should have been published in the respective subjects (ii) The journals in which the articles published should be enclosed (iii) Co-authorship will not be considered (iv) No marks if the books has more than one author (v) No marks for contributions to study materials of College / University / Institute of Distance Education (vi) No marks for editing books (vii) No marks for writing TV / Radio / Serials / Dramas / Shows etc.,. Since the writ petitioner has not fulfilled the requisite condition put forth by the Board for the articles published by her, the Certificate Verification Board has not awarded weightage marks to the writ petitioner."

6. By relying upon the averments made by the learned counsel appearing for the respondents, since the petitioner did not fulfill the requirements and taking into account, the articles published, for the purpose of awarding marks, such marks were not awarded to the petitioner. Insofar as, the marks already obtained by the petitioner since in the same marks, one more candidates also was available and when comparing with the age of the petitioner and other person who got the same marks, the other person since was very senior to the petitioner by taking into account, the date of birth, the other person was selected and the petitioner was not selected.

7. It is also brought to the notice of the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents that, however, subsequently in the year 2009, where similar selection was made, the petitioner again applied for the said selection and accordingly, in that



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selection, in the year 2009, she was selected as Lecturer in Economics, by order dated 04.07.2009 and this has also been communicated to the petitioner by the Director of Collegiate Education and the import of the said order reads thus:

"You have been provisionally selected for the post of Lecturer by TRB. Posting orders will be issued on 8th July 2009 at the Madras University Centenary Auditorium at Chennai. You are requested to be present at the venue by 8.30 AM with all original certificates for verification. The one month training will start from 9th July at Chennai."

8. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

9. Though, it was claimed by the learned counsel for the petitioner that, the petitioner was eligible or entitled to get the marks which should have been awarded to her for the articles she had written and were published in National Level Journals, definite reasons have been given by the respondents in paragraph No.5 of the counter affidavit, which has been quoted above.

10. Be that as it may, subsequently, when the petitioner was selected in 2009 recruitment and she was appointed as such, the petitioner has been working now and therefore, the very challenge made in this Writ Petition for non-selection of the petitioner of 2007 selection has diluted and moreover, this Court cannot go into the controversy, as to whether the articles published by the petitioner in National Level Journals as claimed by the petitioner is worthy to be considered for awarding the marks as per the procedure adopted by the respondents during the selection process. Therefore, this Court feels that, by taking note of the aforesaid development and by recording the subsequent development, where the petitioner has been selected and got appointed, this Writ Petition can be disposed of, accordingly, it is disposed of. However, there shall be no order as to costs.

s/d-
Assistant Registrar(CS)

True Copy

Sub-Assistant Registrar

vji



To

1. The Secretary to Government
State of Tamil Nadu,
Higher Education Department,
Secretariat, Chennai - 600 009.
2. The Chairman,
Teachers Recruitment Board,
DPI Complex,
Chennai - 600 006.

+1cc to M/S.Row & Reddy, Advocate, S.R.No.11981

W.P. No. 36887 of 2007

BP (CO)
SU (29/07/2021)