

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2021

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Writ Petition No.27332 of 2008

R.Kuzhanthairani

... Petitioner

-Vs-

1.The Chairman

Teachers Recruitment Board
College Road, Chennai 600 006.

2.The Director of School Education

College Road, Chennai 600 006.

3.The Assistant Director

Professional & Executive
Employment Office, Santhome
Chennai 600 004.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the first respondent to call upon the petitioner for Certificate Verification for appointment / recruitment to the post of Agriculture Instructors for Government Higher Secondary Schools and issue final selection letter and consequently direct the 2nd respondent to issue the order of appointment to the petitioner appointing her as Agriculture Instructor in a Government Higher Secondary School as per the seniority ranking of such candidates selected for appointment of Agriculture Instructors for the years 2007-08, 2008-09.

For Petitioner :Mr.S.Silambanan, Senior Counsel for
M/s.S.Silambanan Associates,

For Respondents:Mr.C.Munuswamy
Special Government Pleader for R1
Mrs.K.Bhuvaneshwari,
Additional Government Pleader for R3
Mr.S.Suresh Kumar
Government Advocate for R2

O R D E R

The prayer sought for herein is to direct the first respondent to call upon the petitioner for Certificate Verification for appointment / recruitment to the post of Agriculture Instructors for Government Higher Secondary Schools and issue final selection letter and consequently direct the 2nd respondent to issue the order of appointment to the petitioner appointing her as Agriculture Instructor in a Government Higher Secondary School as per the seniority ranking of such candidates selected for appointment of Agriculture Instructors for the years 2007-08, 2008-09.

2. It is the case of the petitioner that, she has completed her B.Sc (Botany) in the year 1985 and B.Sc., (Agriculture) in the year 1989. With that qualification, the petitioner registered her name in the office of the third respondent on 17.08.1989.

3. Since the petitioner was anxiously waiting to get a job from the Government and after having waited for 19 years, in the year 2008 the first respondent Teachers Recruitment Board had issued a communication for Certificate Verification to fill up 200 posts of Agriculture Instructors (B.T.Assistant Scale), after having come to know this, the petitioner verified the details of the names which were sponsored by the Employment Exchange for the recruitment to the said post. The petitioner claimed to have found 483 names, in which her name was found in Serial No.42. Therefore, the petitioner was in fond hope that, since there were 200 posts allotted and the petitioner was in Sl.No.42, certainly she would be getting the selection and appointment to the post of Agriculture Instructor, which is a B.T.Assistant Scale post.

4. However, subsequently the list of provisionally selected candidates was issued, where the petitioner's name was not found. In the meanwhile, the petitioner came to know that, on 24.10.2008 Certificate Verification was to be held but, as she did not receive any communication from the third respondent, the petitioner approached this Court by filing the present writ petition with the aforesaid prayer to give one more chance for Certificate Verification and select her to the post of Agriculture Instructor.

5. The respondents, especially the first respondent, represented by the learned Special Government Pleader, during the last hearing had taken a stand that, though communication was sent through post to each and every candidate whose names were sponsored by the Employment Exchange, including the

petitioner, for attending the Certificate Verification held on 24.10.2008, the petitioner did not turn up for such Certificate Verification and therefore her name was not considered.

6. However, the said stand taken by the respondents especially the first respondent was stoutly refuted by the learned counsel for the petitioner and he maintained that, the petitioner has never been issued with a communication for Certificate Verification.

7. In order to resolve the same during the last hearing, this Court has directed the first respondent to produce the relevant records to establish that a communication has been sent to the petitioner to attend the Certificate Verification on 24.10.2008.

8. In response to the same, the learned Special Government Pleader appearing for the first respondent has produced written instructions from the Member (TET), Teachers Recruitment Board, Chennai 600 006 ie., the first respondent dated NIL (February 2021) before this Court, where inter alia the first respondent has stated that, due to the space crisis at the first respondent office, as very voluminous records of various recruitments since 2001 were stored in the office of the first respondent, they were to be destroyed and in this regard a Committee has been constituted, and after considering all these aspects, the Committee recommended for destruction of records of various recruitments up to the year 2008-09. Annexing the copy of the recommendation of the Committee constituted in this regard, in the written instructions, the first respondent has stated the following.

"6. It is to state that the Teachers Recruitment Board is a recruiting agency and is in possession of lot of records pertaining to recruitment from the year 2001. There is lack of space to preserve these records. Further the records are prone to attack of termites thereby increasing the risk of losing recent valuable records.

7. It is to state that the Board formed a Committee in this regard and the Committee discussed the above matter in detail and came to a conclusion that destruction of records related to old recruitments that have arrived a finality may be carried out and accordingly destroyed the records which are attached in the annexure herewith which

includes the recruitment conducted in the year 2008 (Agriculture Instructor).

8. Hence, it is submitted that non-compliance of orders passed by this Hon'ble Court is neither willful nor wanton and also tender an unconditional apology to the Hon'ble Court. Hence, it is requested that the respondent may be dispensed with the production of the documents as directed by the Hon'ble High Court. "

9. Relying upon these instructions, the learned Additional Government Pleader would submit that, the records since have been destructed as recommended by the Committee constituted in this regard, the records could not be produced before this Court. Therefore, for such non compliance the first respondent may be excused.

10. I have considered the said submissions of the learned counsel for the parties and have perused the materials placed before this Court. The controversy involved in this case is, as to whether a written communication has been sent or call letter has been sent by the first respondent to the petitioner instructing the petitioner to appear for Certificate Verification on 24.10.2008.

11. In this context, though it was maintained by the learned counsel for the petitioner that, the petitioner did not receive any communication from the first respondent, it is the categorical assertion on behalf of the first respondent that, communication has been sent to every candidate including the petitioner, pursuant to which all other candidates attended the Certificate Verification. However, the petitioner did not appear and therefore allegation cannot be made against the first respondent.

12. The said stand taken by the first respondent, though could not be proved by producing the documents due to the reasons stated in the written instructions, where the documents have already been destroyed, this Court has to take a positive note and believe the statement of the first respondent, as no such personal animosity can be attributed on the first respondent, against the petitioner. Therefore, it shall be presumed that the communication would have been sent to the petitioner also.

13. Moreover, the petitioner in her affidavit, which was filed in the year 2008, has stated that, the petitioner has already crossed 44 years. If that is so, she must be in the verge of superannuation ie., either 57 or 58. Therefore, at

this juncture, the prayer of mandamus sought for by the petitioner to call the petitioner once again for Certificate Verification for recruitment to the post concerned which was over more than a decade back, is not feasible. Therefore, this Court feels that, the prayer sought for in this writ petition cannot be granted at this juncture.

14. In view of the aforesaid discussion, this writ petition fails and hence it is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KST

To

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

2.The Director of School Education
College Road, Chennai 600 006.

3.The Assistant Director
Professional & Executive
Employment Office, Santhome
Chennai 600 004.

+1 cc to The Government Pleader, Advocate Sr.No. 8048,8272

W.P.No.27332 of 2008

RGN(CO)
RMP(19/03/2021)