

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 7723 of 2010

S.Saratha Devi

... Petitioner

-vs-

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

2. The District Elementary Education Officer,
Theni District,
Theni.

3. The District Employment Officer,
Theni District,
Theni.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the first respondent to process the Selection Letter dated 23.11.2009 selected the petitioner for the post of Secondary Grade Teacher in Elementary Middle Schools under the control of Directorate of Elementary Education and may issue necessary Direction or Order for issuing placement orders.

For Petitioner : Mr.N.Srinivasulu

For Respondents : Mr.C.Munusamy
Special Govt. Pleader for R1
Mr.S.Sureshkumar
Government Advocate for R2
Mrs.K.Bhuvaneswari
Addl. Govt. Pleader for R3

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the first respondent to process the Selection Letter dated 23.11.2009 selecting the petitioner for the post of Secondary Grade Teacher in Elementary / Middle Schools under the control of Directorate of Elementary Education and to

issue necessary Direction or Order for issuing placement orders.

2. The petitioner having completed Diploma in Teacher Education Course registered the same in the concerned employment exchange office at Theni District.

3. In those years, the selection and appointment to the post of Secondary Grade Teacher had been made based on the employment exchange seniority, where, those who completed the Secondary Grade Teachers Training Course, i.e., Diploma in Teacher Education and registered their educational qualification in the concerned employment exchange would be called for interview or certificate verification session before selection for the post of Secondary Grade Teacher throughout the State based on the available vacancies.

4. In this context, the petitioner's name having been sponsored by the employment exchange had been called for certificate verification and after having verified the same, by communication dated 23.11.2009, the first respondent / Teachers Recruitment Board has sent the communication to the petitioner stating that, she has been provisionally selected for the post of Secondary Grade Teacher in the Department of Elementary Education on the basis of State Seniority of the registration of the petitioner.

5. Though such an intimation dated 23.11.2009 was issued by the first respondent / Teachers Recruitment Board, subsequently, the petitioner had not been given appointment or posting, despite the fact that, the other selectees have been given postings. Therefore, in order to implement the order of selection as intimated by the first respondent dated 23.11.2009, the petitioner has moved this Writ Petition with the aforesaid prayer.

6. I have heard Mr.N.Srinivasulu, learned counsel appearing for the petitioner who would submit that, having been called for certificate verification and after verifying the certificate including the educational qualification, employment seniority etc., the first respondent / Teachers Recruitment Board in fact selected the petitioner provisionally and intimation to that effect has also been issued on 23.11.2009, pursuant to which, appointment and posting should have been given to the petitioner and without giving appointment and posting, since they kept the issue pending for long time, the petitioner has no other option except to approach this Court and accordingly, filed this Writ Petition.

7. In this context, the learned counsel appearing for the petitioner would further contend that, the petitioner belongs to BC communal category and being a women in that category,

certainly she would be senior as per the employment exchange seniority, where the qualification of the petitioner has been registered and only based on which, the petitioner was called for certificate verification and was selected for appointment to the post of Secondary Grade Teacher. Therefore, there is absolutely no impediment on the part of the respondents for processing, pursuant to the communication dated 23.11.2009. Therefore, the petitioner is entitled to seek for a mandamus as prayed for. Hence, the learned counsel appearing for the petitioner seeks indulgence of this Court by way of mandamus.

8. However, Mr.S.Sureshkumar, learned Government Advocate appearing for the second respondent, based on written instructions, submitted by the first respondent / Teachers Recruitment Board dated 18.03.2021 has submitted that, the petitioner had registered the qualification of Diploma in Teacher Education Course, which she completed in the year 2008 and registered at the concerned employment exchange, i.e., District Employment Exchange Office, Theni on 03.04.2009.

9. However, last person in the Backward Class (Women) category, where the petitioner belongs, who was selected and appointed to the post of Secondary Grade Teacher was having the seniority dated 05.10.2000, i.e., nine years prior to the petitioner. Therefore, based on the said input submitted, the learned Government Advocate would submit that, the intimation given by the Teachers Recruitment Board dated 23.11.2009 to the petitioner was wrong information as mistakenly it was done. Therefore, based on such mistaken communication, the petitioner cannot claim any right for appointment and therefore, the prayer sought for herein cannot be granted. Hence, he seeks dismissal of the Writ Petition.

10. I have considered the rival submissions made by the parties and have perused the materials placed before this Court.

11. In the written instructions dated 18.03.2021, the first respondent / Teachers Recruitment Board has stated the following:

"Though the petitioner has completed her D.T.Ed in the year 2008 she registered only on 03.04.2009 in the District Employment Office, Theni. Since she does not possess the eligible seniority and she does not come within the selection zone she was not selected for the post.

As per the selection list of Secondary Grade Teachers (Elementary Education Department) 2009-10, the last candidate selected in BC (W) has registered with employment seniority

dated 05.10.2000. Since, the petitioner Seniority has not reached the zone of selection, she was not considered for selection under BC(W)."

12. From the said averments, it has become clear that, the petitioner has completed Diploma in Teacher Education Course only in 2008 and she registered the same on 03.04.2009 at the District Employment Exchange, Theni. However, insofar as the said recruitment is concerned in the communal category, i.e., Backward Class, where the petitioner belongs, the women candidates who had been selected and appointed as Secondary Grade Teacher were having the employment seniority on or before 05.10.2000. Therefore, the petitioner had not even nearer to the employment seniority, i.e., cut of seniority taken up for consideration for the said recruitment. Therefore, it has become clear that, the petitioner is not senior for consideration of appointment on the seniority basis.

13. However, since a communication had been given on 23.11.2009, i.e., after certificate verification, that the petitioner had been provisionally selected for the post of Secondary Grade Teacher, the petitioner seeks indulgence of this Court.

14. It is a settled proposition that, even in a regular recruitment, for which, if notification was issued to conduct the process of competitive examination as well as oral test and accordingly, if a candidate is selected provisionally, that would not confer any right on the candidate to claim the appointment and posting, and in this regard the law is well settled.

15. Even though, if he or she has been selected properly and got ready for giving appointment and in the meanwhile, if the employer reduces the vacancy to be filled up, on that ground itself, the selected candidates based on merits, would not be considered for appointment or postings.

16. When that being the position, merely by mistaken communication as sent on 23.11.2009 to the petitioner without verifying the communal seniority of the employment exchange, based on which, the petitioner cannot claim any right of appointment to the post of Secondary Grade Teacher. In view of the said factors which has been narrated herein above, this Court feels that, the petitioner cannot seek any indulgence of this Court to give a direction by way of mandamus.

17. Accordingly, the writ petition fails and therefore, it is liable to be dismissed. Accordingly, this writ petition is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

vji

To

1. The Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Campus, College Road,
Chennai - 600 006.
2. The District Elementary Education Officer,
Theni District,
Theni.
3. The District Employment Officer,
Theni District,
Theni.

+1cc to Government Pleader SR.No.19164

W.P. No. 7723 of 2010

LN(CO)

GMV(12/07/2021)

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