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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.08.2021

PRONOUNCED ON : 23.08.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.14573 of 2018

(Through Video Conferencing)

1.B.Shabeer
2.M.Shabana
3.Beemabi.R
4.A.Senthilkumar

.. Petitioners

vs

1. Teachers Recruitment Boiard,
Rep.by its Member Secretary,
4th Floor, EVK Sampath Maaligai,
DPI Compound,
College Road, Chennai.

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

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the 2nd respondent to immediately issue appointment orders appointing the petitioners, who have passed the exam conducted by the 1st respondent on 30.04.2017 and who successfully participated in the Certificate Verification conducted by the 1st respondent in July 2017 pursuant to the Notification/Advertisement No.2/2017 dated 27.04.2017 issued by the 1st respondent for Direct Recruitment of BT Assistants and BT Assistants (IEDSS) 2015-2016, in the post of BT Assistants in History and petitioner No.4 as BT Assistant in Geography in Higher Secondary Schools or High Schools in Villupuram and Cuddalore Districts which is their native place.

For Petitioner	:	Mrs.Nalini Chidambaram, SC for M/s.C.Uma
For Respondents	:	Mr.L.S.M.Hasan Fizal Government Advocate.



O R D E R

This writ petition has been filed by the petitioners for a writ of mandamus to direct the respondents to appoint the petitioners as BT Assistants and BT Assistants (IEDSS) 2015-2016, in the post of BT Assistants in History and petitioner No.4 as BT Assistant in Geography in High Secondary Schools or High Schools in Villupuram and Cuddalore Districts.

2. The petitioner Nos.1 to 3 belong to Backward Community Muslim (BCM). The 4th petitioner belongs to MBC/DNC. They participated in the Direct Recruitment of Teachers announced by the 1st respondent Teachers Recruitment Board vide Notification No:2/2017 dated 27.04.2017.

3. The Notification is titled as Direct Recruitment of BT Assistants and BT Assistants (IEDSS) 2015-2016. The petitioners were called for a certificate verification by the respondents after they cleared the written examination. After the petitioners were called for certificate verification, the respondents did call them for interview.

4. The learned Senior Counsel for the petitioners submits that the petitioners are meritorious candidates who appeared and have necessary qualifications. Having allowed the petitioners to write the exam and come for the certificate verification, it was not open for the respondents to deny the employment to the petitioners by stating that the notification was only to fill up backlog vacancies for the year 2015-2016 and 2012, 2013 and 2014.

5. The learned Senior counsel further submits that the petitioners have obtained a clarification from the 1st respondent as to why their applications for appointment was rejected.

6. The learned Senior counsel further submits that by reply dated 08.03.2018, the respondents have clarified that the appointments were made only for filling up of backlog in the vacancies and the delay was not account of any departmental proceedings therefore it was not open for the respondents to reject the petitioners/candidature.

7. The learned counsel for the respondents submits that the petitioners cleared TNTET only on 30.6.2017 and produced the same during certificate verification on 28.7.2017. It is submitted that when the petitioner appeared for selection exam they did not have requisite qualification. It is submitted that the notification for the post of B.T Assistant was meant only for 2012, 2013 and 2014- TNTET qualified candidates.



8. It is submitted that the petitioners were not eligible to apply for the said post and cannot claim appointment orders from the Board. It is submitted that the petitioners were misleading the Court by giving false information.

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9. The learned counsel for the respondents submits that one of the essential qualifications for a person to be eligible for appointment as a teacher in anyone of the schools referred to clause (n) of Section 2 of the RTE Act is that they should have passed the Teacher Eligibility Test (TET) conducted by the appropriate Government. In this TNTET qualification was acquired after the notification.

10. The learned counsel for the respondents further submits that in the above notification, it was clearly stated that the candidates who have appeared and secured eligible marks in Teacher Eligibility Test 2012, 2013 Special Teacher Eligibility Test 2014 alone would be considered for selection based on merits and since the notification was issued prior to the result of Teacher Eligibility Test 2017, the petitioners cannot claim to be considered against the vacancies notified as per notification No:2/2017 dated 27.04.2017.

11. It is submitted that as per G.O Ms.No.149, School Education Department dated 20.07.2018 the Government of Tamil Nadu has taken policy decision to conduct a separate competitive exam for the Teacher Eligibility Test qualified candidates alone for appointment in the Government schools therefore the petitioners cannot claim any right in the recruitment which was issued prior to the commencement of recruitment process.

12. I have considered the arguments of the learned Senior counsel for the petitioners and the learned Government Advocate for the respondents and perused the documents and RTI of the 1st respondent.

13. The relevant portion of the notification dated 27.04.2017 calling for application reads as under:-

'The Board has decided to select the candidate for the direct recruitment of Graduate Assistants for the notified vacancies from the 2012, 213 & 2014 - TNTET qualified candidates after verifying their eligibility. Therefore, there is no need to apply separately for this recruitment. Only those candidates who were previously selected by the Board for B.T. Assistant post but did not join the service and who wish for their candidature to be considered now for this recruitment may download the



To begin with, TRB will prepare the list of candidates to be called for CV on a 1:1 ratio basis, for the vacancies notified herein, based on the details uploaded by the candidates through the online updation process as well as the available C.V. data with TRB and by incorporating the list of previously selected candidates who did not join the service and who have now submitted application for consideration till 10.05.2017, duly following communal rotation and other relevant rules in vogue.'

18. The 2nd respondent vide reply dated 08.05.2015 in response to a similar RTI query dated 08.03.2018 has stated that during July 2017, a total 195 BT Assistants were appointed from the current and backlog vacancies.



19. It is not clear on what basis the names of the petitioners were omitted by the respondents by restricting the appointment in the current vacancies to 195 as against 286 and by including the names from the backlog vacancies also. If the petitioners were otherwise qualified, they should have been appointed by the 2nd respondent, Director of School Education.

20. In the Counter filed by the 1st respondent, it has been admitted that the petitioners have obtained following marks:-

a) B.Shabeer	-	95 marks
b) M.Shabana	-	100 marks
c) Beemabi.R	-	100 marks
d) A.Senthilkumar	-	87 marks

21. Thus, the petitioners were eligible to be considered for being appointed along with 195 persons already selected by the 1st respondent, Teachers Recruitment Board from the backlog vacancies and current vacancies. If the persons who had scored lesser marks than the petitioners, the petitioners are entitled to be considered for appointment. The 2nd respondent, Director of School Education is therefore directed to appoint the petitioners from the remaining 91 vacancies. This exercise shall be carried out by the 2nd respondent within a period of four weeks from the date of receipt of a copy of this order. In case, the petitioners have found eligible, appointment letter should be issued within fortnight thereafter.

22. The writ petition stands disposed with the above observations. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

kkd

To

1. The Member Secretary,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Compound,
College Road, Chennai.



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

+1cc to Ms.C.Uma, Advocate Sr No.42423
+1cc to Government Pleader Sr No.42627

W.P.No.14573 of 2018

GJ (CO)
PR (22/09/2021)