

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.34232 of 2018
and
W.M.P.No.39776 of 2018

R.Sameera

.. Petitioner

Vs

The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, V.O.C.Nagar,
Chennai - 3.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to select and appoint the petitioner bearing Registration No. 010004024 in any one of the vacant post of Agricultural Officer (Extension) pursuant to the Notification No. 9/ 2018 dated 03.05.2018 under the BC Muslim Category.

For Petitioner : Mr.L.Chandrakumar

For Respondent : Mr.M.Loganathan

ORDER

The relief sought for in this writ petition is to direct the respondent to select and appoint the petitioner bearing Registration No. 010004024 in any one of the vacant post of Agricultural Officer (Extension) pursuant to the Notification No. 9/ 2018 dated 03.05.2018 under the BC Muslim Category.

2.It is the case of the petitioner that originally, her name was Priyavadhana and she belonged to SC community. She got married to one Raja Mohammed and converted herself to husband's community and thereby she was categorised as BC Muslim and her name was changed to R.Sameera which was also notified. It is the further case of the petitioner that pursuant to the notification issued by the respondent service commission, she applied for the post of Agricultural Officer (Extension) and she underwent the

selection process. However, upon verification of certificates, a list of candidates for oral test was published on 17.12.2018 wherein the petitioner's name did not find place, since there was a discrepancy in regard to uploading the caste certificate. According to the petitioner, after marriage, due to conversion, she has been categorised as Labbai Muslim and comes within the category of BC - Muslim. Hence, she approached the respondent and requested to consider her candidature for appointment to the notified post under BC Muslim category. Finding no response, she has approached this Court with the present writ petition for the aforesaid relief.

3. Upon notice, the respondent filed a counter affidavit, inter alia stating that the petitioner mentioned her communal category as BC-Muslim - Labbai in her online application, however, while verifying the document, it was found that she belongs to converted muslim; as per Government Letter No.6907/2015-1, dated 04.05.2017, BC, MBC and Minority Welfare Department, converted Muslim should be treated as "Others"; and hence, the petitioner was treated under "Others" category. It is also stated that while considering the petitioner under "Others" category, she exceeded the maximum age limit of 30 years and hence, the petitioner's application was rejected as per para 4 (A) of notification. Stating so, the respondent sought to dismiss this writ petition.

4. Today, when the matter was taken up for consideration, the learned counsel for the petitioner submitted that the issue involved herein has already been dealt with by this Court in W.P.No.8500 of 2019 and by order dated 23.01.2020, it was held as under :

"8. It is important to note that the Government letter deals with a situation where a person who belongs to a BC or MBC community latter gets himself or herself converted to Islam. Such persons are directed to be brought within the category of 'Others'. This Government letter could have been invoked against the petitioner, if the petitioner had not received any Community Certificate after her conversion to Islam. However, in the present case, the earlier Community Certificate issued to the petitioner was cancelled and a fresh Community Certificate has been given to the petitioner by the Competent Authority by showing her as a backward class Muslim. In the light of this Community Certificate, the petitioner cannot be brought under the category of 'Others'. The Government letter that was referred by the learned Standing Counsel appearing for the respondent cannot be put

against the petitioner.

9.It is at this juncture, this Court has to take note of the judgment that was cited by the learned counsel for the petitioner. This Court under similar circumstances had held that a Hindu Nadar, who belongs to the backward class community, on conversion to Islam becomes a Labbai Muslim, should be considered as a backward Muslim. This Court had therefore directed the respondent to treat the petitioner therein as a backward community Muslim. In the present case, the petitioner is in a better footing, since she has also been granted Community Certificate to the effect that she is a backward community Muslim.

10.In view of the above discussion, this Court is of the considered view that the results of the petitioner ought not to have been withheld and the respondent should have published the result of the petitioner and should have called the petitioner for the written and oral test and proceeded further with the selection. Therefore, the impugned communication of the respondent dated 13.02.2019, is hereby quashed and the respondent is directed to publish the result of the petitioner and consider the candidature of the petitioner, if there is any vacancy. "

Thus, the learned counsel prayed for similar order in this writ petition as well.

5.The learned counsel for the respondent fairly condoned the aforesaid order passed by this Court.

6.Heard both sides and perused the materials placed before this Court.

7.Admittedly, the petitioner originally belongs to SC community and after marriage with a Muslim person, she was converted to Labbai Muslim which is a BC category and as earlier as in the year 2011 itself, she obtained BC community certificate, a copy of which is also enclosed in the typed set of papers. However, while uploading online application, there was some discrepancy as regards her community status. But that by itself is not a ground to reject her candidature, when she is otherwise found eligible for appointment to the notified posts, as to err is human. Therefore, considering the facts and circumstances of the case and also following the aforesaid earlier order passed in similar writ petition, which holds the field.

8.In such view of the matter, the respondent is directed to consider the representation of the petitioner, on merits and also in the light of the order passed in W.P.No.8500/2019 dated 23.01.2020 and pass appropriate orders within a period of six weeks from the date of receipt of copy of this order.

9.Accordingly, this writ petition is disposed of No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mtl

To

The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, V.O.C.Nagar,
Chennai - 3.

+lcc to Mr.L.Chandrakumar, Advocate, S.R.No.19270

W.P.No.34232 of 2018

GSM(CO)
CB(14/07/2021)



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