



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 18.03.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. (MD) .No.7679 of 2017

and

W.M.P (MD) No.5983 of 2017

G.Nirmaladevi

.. Petitioner

- Vs -

1.The Director of School Education,
D.P.I Complex,
College Road,
Nungampakkam,
Chennai-6.

2.The Chief Educational Officer,
Madurai District,
Madurai.

3.Balamurugan
(R3 is impleaded vide Court order
dated 27.06.2019 in W.M.P (MD)
No.7080 of 19)

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus, directing the 2nd respondent to appoint the petitioner to the post of Lab Assistant based on her written examination marks scored along with weightage marks given to her by the respondents.

For Petitioner: Mr.A.Balaji

For R1 & R2 : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader

For R3 : Mr.S.Muthumalai Raja

ORDER

This Writ Petition is filed for a direction to direct the second respondent to appoint the petitioner to the post of Lab Assistant, based on her written examination marks scored along with weightage marks given to her by the respondents.



2.The case of the petitioner is that after completing her studies, she registered her name in the District Employment Exchange, Madurai in the year 1998. While so, the first respondent has issued a notification, dated 22.04.2015 for filling up the post of Lab Assistant through Direct Recruitment mode in the entire State of Tamil Nadu Government Higher Secondary Schools. Based on the said notification, the second respondent invited the applications to fill-up the post of Lab Assistants within the District. The petitioner belongs to Backward Class Community Category with PSTM (Persons Studied in Tamil Medium) quota and her application was accepted and she has received hall ticket for written examination, which was held on 31.05.2015. Thereafter, the result was published on 24.02.2017 and the petitioner has scored 118 marks out of 150 marks. Thereafter, the petitioner was called for certificate verification, on 09.04.2017 and after verification, the weightage mark was given for her educational qualification 5 marks and for her Employment Exchange seniority 10 marks and totally, she secured 133 marks. When the result of the selection list was published by the second respondent, the petitioner's name was not found in the said list. However, one Balamurugan and Ramya were found in the list, who were secured lesser marks than the petitioner, were selected. Hence, the petitioner has filed the present writ petition.

3.The learned counsel appearing for the petitioner submitted that though the petitioner secured 133 marks, the person, who secured lower marks than the petitioner were selected. Hence, this Court may issue a direction to the respondents to consider the petitioner's candidature for the post of Lab Assistants.

4.The learned Additional Government Pleader appearing for the first and second respondents submitted that the said Balamurugan, Ramya and the petitioner are belong to BC Community and the said Balamurugan obtained 135 marks, Ramya obtained 121 marks and the petitioner has obtained 133 marks. The cut off marks for BC category was 133 marks. In the BC Category, one Smt.Shanthi was selected ahead of the petitioner and she secured 133 marks. On the basis of date of birth, the said Shanthi was selected and her date of birth is 20.04.1973 and the petitioner's date of birth is 07.06.1983. As per the Recruitment Rules of TNPSC, Subsidiary Rules for direct recruitment in the case of competitive examinations comprising of written examination alone:

"i.The Merit list or Ranking list ma be prepared on the basis of total marks secured by the candidates in the written examination.

ii.In case of two or more candidates scoring equal marks, the candidate possessing the highest qualification may be placed above in the merit list.

iii.When the marks obtained in the Written Examination and the qualifications are also the same, then the candidate senior in age may be placed above in the merit



list.

iv. When the age too is equal then the candidate who has submitted his application earlier to the Commission, may be placed above in the merit list. In the case of OMR application, the date of receipt of the OMR application in the commission's Office and in the case of online application, the date of Registration of application through online may be taken into consideration.

v. If the date of receipt of OMR application and date of registration of online application too is the same, the names of all such candidates be arranged in the alphabetical order to determine merit."

5. The facts in the present case are not in dispute. Admittedly, the petitioner has participated in the process of selection for the post of Lab Assistant and she secured 133 marks and she belongs to BC Category. Further, it is also not in dispute that the selection list was published on 16.04.2017 and the appointment order was also issued on 17.04.2017. A perusal of the counter affidavit, it is seen that one Balamurugan, belongs to BC Category and he secured 135 marks and one Ramya, her name was not found in the selection list and the petitioner has obtained 133 marks. The cut off marks for BC category was 133 marks. In the BC Category, one Smt. Shanthi was selected ahead of the petitioner and she secured 133 marks. On the basis of the date of birth, the said Shanthi was selected and her date of birth is 20.04.1973 and the petitioner's date of birth is 07.06.1983. As per Clause-iii of the Tamil Nadu Public Service Commission Subsidiary Rules, when the marks obtained in the written examination and the qualifications are also the same, then the candidate senior in age may be placed above in the merit list.

6. In view of the said Rules and since the selection and appointment of the Commission, is in consonance with the above said statutory provisions, the contention of the petitioner that she secured more marks than that of the selected candidates, cannot be countenanced. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

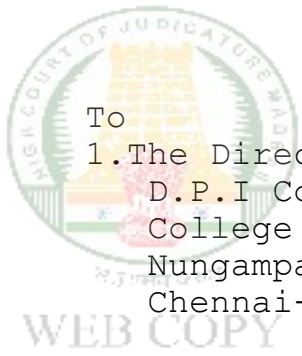
Assistant Registrar (W)

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/ /2021

Sub Assistant Registrar (CS)

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To

1.The Director of School Education,
D.P.I Complex,
College Road,
Nungampakkam,
Chennai-6.

2.The Chief Educational Officer,
Madurai District,
Madurai.

+1 CC to M/s.SPL GP (SR-12534[F] dated 19/03/2021)

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RK(27.05.2021) 4P 4C