



W.P.No.12116 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.12116 of 2014

V.Jayanthi

...Petitioner

Vs

1.The Government of Tamilnadu,
Rep. by its Principal Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.

2.Director of School Education,
College Road,
Chennai - 600 016.

3.Teachers Recruitment Board,
Rep. by its Member Secretary,
4th Floor, EVK Sampath Maaligai,
DPI Compound, College Road,
Chennai - 600 006.

4.K.Muthukumaran

...Respondents

PRAYER: Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for records of the 3rd respondent in Rc.No.906/L2/2015 dated 18.03.2015 and quash the same and consequently direct the 3rd respondent Board to appoint the petitioner as Post Graduate Assistant (Tamil).



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For Petitioner : Mr.N.G.R.Prasad
for M/s.Row and Reddy
For R1 & R2 : Mrs.S.Anitha,
Special Government Pleader
For R3 : Mr.C.Kathiravan,
Special Government Pleader
For R4 : No Appearance

ORDER

The order of rejection, rejecting the claim of the writ petitioner for selection and appointment to the post of Post Graduate Assistant (Tamil), is under challenge in the present writ petition.

2. The petitioner possesses Bachelor's Degree from Arignar Anna Government Arts College, Salem, in Tamil and Post Graduate Degree in the same subject from Bharathidasan University. She registered her name in the Professional Employment Exchange, Chennai and pursuant to the recruitment notification issued by the third respondent on 09.05.2013, the petitioner participated in the written examination for direct recruitment to the post of Post Graduate Assistant. The petitioner secured 100 marks in the written examination, however, she was not selected. The writ petition is filed questioning the examination question paper and the answer keys.



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3. The writ petitions filed in W.P.(MD) Nos.13276 and 14940 of 2013 were disposed of on 01.10.2013, with the following directions:-

"36.In the result, the writ petitions are disposed of in the following terms:

(i) The written competitive examination for recruitment of Post Graduate Assistants in Tamil subject held on 21.07.2013 is hereby set aside.

(ii) The official respondents, more particularly the Teachers Recruitment Board, is directed to conduct fresh examination as early as possible, in any event, not later than six weeks from the date of receipt of a copy of this order.

(iii) For such a fresh examination, fresh hall tickets need not be issued to the candidates. Old Hall Tickets downloaded from the Teachers Recruitment Board Website can be considered as sufficient.

(iv) There shall be no fresh calling for applications."

4. The matter was then taken by way of appeals before the Hon'ble Division Bench, wherein an interim order was passed on 11.12.2013, as follows:-

"10. Therefore, on this plea, we are inclined to pass the following interim order, pending the



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writ appeals:

(i) *The appellants shall reserve two posts of Post Graduate Assistants (2012-2013) for the subject of Tamil, pending the writ appeals, to consider the claim of the respective first respondents herein in both the writ appeals.*

(ii) *The appellants shall declare the merit list of candidates already prepared based on the examination conducted on 21.07.2013 and make appointments except to two posts which has been ordered to be kept as reserved.*

(iii) *Insofar as the claim of the writ petitioners/first respondents in both the writ appeals, whose writ petitions are only to provide grace marks for 21 questions, the appellants are directed to work out their ranking based on the 21 grace marks, and submit a tentative list before this Court on the next hearing date."*

5. The writ petitioner herein earlier filed W.P.No.421 of 2014, which was disposed of on 04.12.2014 by this Court, with the following directions:-

"5. Considering the same, this Court is inclined to permit the petitioner to make representation to the third respondent, within a period of four weeks from the date of receipt of a



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copy of this order, enclosing the copy of the order passed in W.A.No.1090 of 2013. On receipt of the same, the third respondent will have to consider the representation of the petitioner, based upon the order passed in Writ Appeal in W.A.No.1090 of 2013, by giving the benefits given to those candidates who were parties to the said Writ Appeal to the petitioner, if she is similarly placed and pass final orders in the light of the observations made therein, within a period of four weeks thereafter."

6. Pursuant to the directions issued by this Court, the third respondent passed the impugned order, rejecting the claim of the writ petitioner for award of additional marks, for the purpose of selection and appointment to the post of Post Graduate Assistant.

7. The learned counsel for the petitioner mainly contended that the benefit of interim order passed by the Hon'ble Division Bench is to be extended to the writ petitioner by awarding one mark. Admittedly, the petitioner secured 100 marks and the cut-off mark as per the Recruitment Board for the petitioner's category was 101. Thus, the writ petitioner was not within the zone of consideration.



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Graduate Assistant (Tamil) was only 605 and though the writ petitioners before the learned Single Judge would also be entitled for parity like the first respondent in the writ appeals, however, noting that inasmuch as following the interim order of the Honourable Division Bench, dated 11.12.2013, the appellants having valued all the 150 questions, including the erroneous questions and on that basis proceeded to do the valuation and consequently, the results having come to be published by the TRB on 03.01.2014 and further noting that the appointment orders had also come to be issued to the selected candidates appointing them as Post Graduate Assistants in Tamil as early as on 21.02.2014 itself and thereby, all the vacancies for the post of Post Graduate Assistant in Tamil, barring the two vacancies reserved for the first respondent in the writ appeals as per the interim orders in the writ appeals, were filled up as early as on 21.02.2014 and resultantly, excepting those two vacancies, no other vacancy was available for making fresh appointments, on that footing, noting that awarding 21 grace marks to the candidates and thereby directing the appellants to accommodate them would only be a wasteful exercise as the appointment orders had already been issued and thereby, the vacancies having



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been filled up as early as on 21.02.2014 itself barring the two two posts only and further, noting that the writ petitioners before the learned Single Judge had not been afforded with any order of protection by reserving seats to them in the event of their success in the writ petitions and also noting that the writ petitioners having failed to come to the Court promptly and the writ petitions having been filed by them only after the final results had been published and on that premise, holding that the writ petitioners were also guilty of laches, proceeded to dismiss the writ petitions as infructuous, by order dated 27.03.2014 in W.P.(MD) Nos.1775, 4763, 6851, 6400, 6449, 6450, 1081, 7613 and 8540 of 2014.

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15. In addition to that, as above pointed out, when pursuant to the interim order passed by this Court in the writ appeals, dated 11.12.2013, when it is seen that the results of the examination had been published by the TRB on 03.01.2014 and consequent thereto, the appointment orders had been issued to the selected candidates on 21.02.2014 itself and the resultant position being that all the vacancies for the post of Post Graduate Assistants for Tamil subject barring the two vacancies reserved for the first respondent as per



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the interim order passed in the writ appeals had been filled up and there is no vacancy available for making fresh appointment and accordingly, when the other writ petitions filed by the other candidates had been dismissed even by the learned Single Judge in the Principal Seat as well as by us as above pointed out and when it is seen that the selected candidates had been discharging their duties for the past seven years, in view of the abovesaid position, in our considered view, when much water has flown down under the bridge, at this point of time, it would not be proper and advisable to upset the apple cart by ordering the conduct of the fresh examination as directed by the learned Single Judge and in such view of the matter, the contention of the appellants that the learned Single Judge had failed to consider the essential facets, such as, time factor, cost factor, risk factor and also as above pointed out, cannot be easily ignored and when the exercise had been concluded in the conduct of the examination in entirety as on 21.02.2014 itself and thereafter also, when according to the learned Special Government Pleader, two selection process had been completed, the impugned common order, dated 01.10.2013, passed in W.P.(MD) Nos.13267 and 14940 of 2013, is liable to be set aside."



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10. The learned Special Government Pleader appearing for the third respondent made a submission that the writ petitions filed in respect of the very same subject was decided by this Court on 02.12.2020 in W.P.Nos.523, 464, 465 and 524 of 2014 and the said writ petitions were dismissed on the ground of delay.

11. This Court is of the considered opinion that the issues relating to erroneous questions were considered by this Court at the first instance and revaluation was conducted by the Recruitment Board and based on the marks scored by the respective candidates, selection was conducted in the year 2014 and it was concluded and all the posts were filled up. Now, 8 years have lapsed from the completion of selection process and at this length of time, providing additional marks to the writ petitioner, for the purpose of selection to the post of Post Graduate Assistant, would not arise.

12. Accordingly, the Writ Petition stands dismissed. No costs.

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Index:Yes
Speaking order
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To

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Government of Tamilnadu,
Department of School Education,
Fort St. George,
Chennai - 600 009.
- 2.Director of School Education,
College Road,
Chennai - 600 016.
- 3.The Member Secretary,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Compound, College Road,
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S.M.SUBRAMANIAM, J.

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