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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.1439 of 2022

and WMP.No.1592 of 2022

K.Gomathi

.. Petitioner

vs.

1.The State of Tamil Nadu,
Rep. By its Secretary to Government,
Higher Education Department,
Fort St.George, Chennai-600 009.

2.The State of Tamil Nadu,
Rep. By its Principal Secretary to Government,
Human Resource Development Department,
Fort St.George, Chennai-600 009.

3.Teachers Recruitment Board,
Rep. By its Chairman,
EVK Sampath Maaligai,
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 third respondent to strictly follow the guidelines in G.O.Ms.No.82, Human Resource Development (S) Department dated 16.08.2021 while selecting candidates for the 20% persons who studied in Tamil Medium (PSTM) Quota for the post of Lecturers in Government Polytechnic Colleges coming under the Tamil Nadu Educational Service pursuant to Notification No.14/2019 dated 27.11.2019 and consequently direct the 3rd respondent to insist on the candidates to produce the certificate for having studied in Tamil Medium from Class I to M.Sc., Degree at the time of Certificate Verification for being qualified for consideration under 20% PSTM Quota pursuant to Notification No.14/2019 dated 27.11.2019.

For Petitioner : M/s.Nalini Chidambaram
for M/s.C.Uma

For Respondents : M/s.S.Prabhakaran, Government Advocate
for R1&R2

: M/s.C.Kathiravan
Special Government Pleader for R3



O R D E R

The prayer in the Writ Petition is for a Mandamus directing the third respondent to strictly follow the guidelines in G.O.Ms.No.82, Human Resource Development (S) Department dated 16.08.2021 while selecting candidates for the 20% persons who studied in Tamil Medium (PSTM) Quota for the post of Lecturers in Government Polytechnic Colleges coming under the Tamil Nadu Educational Service pursuant to Notification No.14/2019 dated 27.11.2019 and consequently direct the 3rd respondent to insist on the candidates to produce the certificate for having studied in Tamil Medium from Class I to M.Sc., Degree at the time of Certificate Verification for being qualified for consideration under 20% PSTM Quota pursuant to Notification No.14/2019 dated 27.11.2019.

2. The case of the petitioner is that the second respondent has issued G.O.Ms.No.82, Human Resource Development dated 16.08.2021, following the decision of Madurai Bench of this Court in W.P.(MD)No.8025 of 2020 dated 22.03.2021. Under the said Government Order, it has been specifically stated that for claiming reservation under PSTM Quota, the candidate should have studied in Tamil Medium from Class I till Post Graduation. However, the third respondent, in violation of the guidelines in G.O.Ms.No.82 dated 20.01.2022, for the post of Block Educational Officer pursuant to Notification No.13/2019 dated 27.11.2019 by only insisting on certificate for having studied in Tamil Medium for UG Degree and B.Ed. Degree for being considered for PSTM Quota. According to the petitioner, if the guidelines in G.O.Ms.No.82 dated 20.01.2022 is not followed by the third respondent, then the chances of the petitioner, who has studied from Class I till M.Sc., degree course in Tamil, who is eligible for being considered for 20% PSTM Quota for the post of Lecturer in Mathematics in Polytechnic College will be considerably reduced.

3. The Tamil Nadu Public Service Commission issued a Press Release having No.47/2021 dated 23.09.2021, directing the candidates to produce certificates that the candidates studied in Tamil Medium, from Class I to the degree course at the time of Certificate Verification for Group-I Service Exam. However, the third respondent issued Memorandum No.7632/E3(S2) / 2021 dated 10.01.2022 giving notice for certificate verification for the post of Block Educational Officer- 2018-2019 directing candidates to produce PSTM certificates for UG and B.Ed., or its equivalent degrees in contravention of the guidelines issued in G.O.Ms.No.82, Human Resource Development (S) Department dated 16.08.2021. Therefore, the petitioner has filed the present writ petition.



4. The third respondent has filed a detailed counter affidavit wherein it has been stated that Clause 5 of Notification No.14/2019 dated 27.11.2019 deal with reservation and under horizontal reservation, 30% reservation is given for women candidates and 20% on preferential basis was reserved for person who studied in Tamil Medium (PSTM) as per G.O.Ms.No.145, Personnel and Administrative Reforms (S) Department dated 30.09.2010. It is further stated that TRB has issued notification for the post of Lecturers in Government Polytechnic Colleges in the year 2019 itself. According to TRB, they cannot give retrospective operation to G.O.Ms.No.82, Human Resource Development (S) Department dated 16.08.2021. TRB has already conducted computer based examination for the said post and the Certificate Verification is yet to be announced and therefore, applying the Government Order in the midway of the recruitment process is not feasible for compliance at this length of time, when the written examinations have already been over.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. An identical issue came up before the Madurai Bench of this Court in W.P.(MD)No.3302 of 2022 dated 22.02.2022, wherein a learned Single Judge of this Court has observed as under:

"4. The fact remains that the recruitment notification was issued on 27.11.2019. The applications were finalized, the candidates have already participated in the written examination and the Teachers Recruitment Board is in the process of finalizing the selection list. The petitioner has also participated in the process of selection and he is waiting for his result. Under these circumstances, now after a lapse of about 2 ½ years, the petitioner has challenged the notification issued. The candidates, who have participated in the written examination accepting the conditions in the recruitment notifications, cannot turn around challenging the notification. Thus, after a lapse of about 2 ½ years, more specifically, with reference to prescription of eligibility for PSTM Quota, if at all the petitioner raises some ground or otherwise, the notification ought to have been challenged during the relevant point of time, when it was issued in the year 2019. Contrarily, a person, who has submitted an application and participated in the written examination, at the time of issuing of final Selection list, cannot challenge the conditions in the recruitment notifications. However, even as per the notification, the Teachers Recruitment Board has stated that "20% horizontal reservation on preferential basis for



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persons studied in Tamil medium will be followed as per existing G.O.Ms.No.145, Personnel and Administrative Reforms (S) Department dated 30.09.2010". Therefore, it is needless to state that the selection must be conducted strictly in accordance with the terms and conditions stipulated in the notification which is in consonance with the Government Policy in the matter of grant of PSTM Quota to the eligible candidates.

5. In case the petitioner raises a ground in respect of validity of the conditions imposed, that cannot be now adjudicated as the Scope of PSTM quota is further interpreted by the Hon-ble Division Bench, after issuance of impugned notification and based on that, the Teachers Recruitment Board also issued new conditions for PSTM quota in the recent recruitment notification dated 21.10.2021. Therefore, the notification of the year 2019 cannot be challenged based on subsequent developments and changes made in the policy.

6. It is consistently held by the Courts across the country that once the recruitment notification is issued and the candidates participated in the process of selection, they cannot turn around and challenge the conditions in the notification. If at all any selection is made contrary to the terms and conditions of the Notification, the same alone would provide cause for aggrieved persons to move the Court of law, but not otherwise.

7. This being the scope of the writ petition, the notification of the year 2019 cannot be now challenged in the year 2022 and after completion of process of selection, if any violations are noticed, then the aggrieved persons are at liberty to approach the Court of law. Thus, the Writ Petition stands dismissed. No costs."

7. A Division Bench of this Court has also observed in W.A.No.1481 of 2021 and CMP.No.9429 of 2021 dated 17.11.2021 that,

"7.14. the changes brought out in the qualification norms by the way of the subsequent Government Order viz., G.O.(Ms.)No.361, dated 31.12.1999 has to be applied prospectively and cannot be allowed to take retrospective effect."

In the case on hand, the notification is of the year 2019 and the Government Order in G.O.Ms.No.82, Human Resource Development (S) Department is dated 16.08.2021 and it cannot be given retrospective operation in the light of the Division Bench judgment of this Court cited supra. The notification of the year 2019, cannot be now challenged in the year 2022, after a



delay of three years. It is the stand of the third respondent in the counter affidavit that examinations are over and the results are yet to be published and therefore, amending the notification in the midway of the recruitment process cannot be accepted in the light of the Division Bench decision cited supra.

8. In the light of the above reasons, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(IX)

//True Copy//

Sub Assistant Registrar

Jvm

To

- 1.The Secretary to Government.
The State of Tamil Nadu,
Higher Education Department,
Fort St.George, Chennai-600 009.
- 2.The Principal Secretary to Government,
The State of Tamil Nadu,
Human Resource Development Department,
Fort St.George, Chennai-600 009.
- 3.The Chairman,
Teachers Recruitment Board,
EVK Sampath Maaligai, DPI Campus, College Road,
Chennai-600 006.

+1cc to M/s.C.Uma, Advocate, S.R.No.22527

+1cc to the Government Pleader, S.R.No.22216

W.P.No.1439 of 2022

BP(CO)
KM(04/04/2022)