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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No. 1643 of 2022
and WMP.Nos. 1790 and 1793 of 2022

K.Pandiyan

..Petitioner

vs.

1. The Director of Elementary Education
College Road,
Chennai-6.

2.The Chief Educational Officer,
Senthurai -621714,
Ariyalur District.

3.The District Educational Officer,
Senthurai 621714,
Ariyalur District.

4.The Block Educational Officer,
Senthurai -621714,
Ariyalur District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondent to promote the petitioner as B.T. Assistant (Science) at Senthurai Block by including his name in the panel for promotion for B.T.Assistant (Science) as on 01.01.2021 by taking into account of the last date of B.Sc examination (ie) 23.10.2020 in the light of the order passed in W.P.No.18339 of 2010 dated 02.09.2010 confirmed in W.A.No.1636 of 2012 dated 06.08.2012

For Petitioner : Mr.S.N.Ravichandran
For Respondents : Mr.V.Manoharan, AGP

O R D E R

According to the learned counsel for the petitioner, the 4th respondent has granted permission to the petitioner to study B.Sc Degree. Based on the said permission, the petitioner had completed B.Sc degree and appeared for the examination held



during the month of October 2020. Due to the 2nd pandemic, the results were declared only on 05.10.2021 and the provisional certificate and mark statements were issued on 05.10.2021 itself. Therefore, the petitioner was not able to submit his degree certificates to the authority concerned on or before the cut off date i.e. on 31.12.2020 for inclusion of his name in the tentative panel. The 1st respondent by proceedings in Na.Ka.No. 756/T1/2021, dated 15.11.2021, directed all the Chief Educational Officers to prepare the panel of all eligible candidates for promotion as on 01.01.2021. But the petitioner's name was not included in the panel published by the 4th respondent for promotion to the post of B.T. Assistant (Science). The petitioner has made representation dated 24.01.2022 to the respondents, there was no response for the same, hence the present writ petition.

2. The petitioner has also filed a Miscellaneous Petition along with this writ petition, seeking direction to the respondents to permit the petitioner to participate in the counseling to be held on 05.02.2022 or any subsequent dates for promotion to the post of B.T. Assistant (Science).

3. At the time of admission this Court has granted an interim orders directing the respondents that 'any appointment made to B.T. Assistant (Science) in Senthurai Block is subject to outcome of this writ petition'. Now the writ petition is taken up for final disposal.

4. According to the learned counsel for the petitioner, the writ petitioner has completed B.Sc degree on 23.10.2021, due to pandemic of Covid19, the results got delayed and was published on 05.10.2021. The respondent ought to have taken into consideration the last date of examination appeared by the petitioner for B.Sc degree. The learned counsel for the petitioner has relied upon decision of this Court in W.P.No. 18339 of 2010 dated 02.09.2010, wherein this Court has allowed the writ petition, directing the respondents therein to consider the petitioners therein as eligible for recruitment to the post of Graduate Assistant, provided all other conditions are satisfied'. The said order was also confirmed by the Hon'ble Division Bench of this Court in W.A.No. 1636 of 2012 by order dated 06.08.2012 filed by the respondent/Department. Therefore, the petitioner is entitled for the relief as prayed for in the writ petition.

5. On the other hand the learned Additional Government Pleader would submit that the petitioner was not permitted to appear for the counseling conducted on 05.02.2022 or any subsequent dates, therefore, the decision relied upon by the writ petitioner would no longer support the contention of



learned counsel for the petitioner.

6. The learned Additional Government Pleader would further submit that the aforesaid promotion counseling for the post of B.T Assistant (Science) has already been completed by the respondent/department, therefore if any counseling conducted by the respondents in future, the petitioner's name will be included in the promotion panel. Therefore the prayer sought for by the petitioner is unsustainable and the same is liable to be rejected.

7. Heard both sided and perused the materials available on record.

8. Admittedly, the petitioner had joined B.Sc (Physics) degree after obtaining permission from the 4th respondent and the last date of examination on 23.10.2020 and the last date for submitting the relevant certificates was fixed on 31.10.2021 for including the name in the promotion panel by fixing the crucial date on 01.01.2021. Due to the pandemic situation, the petitioner could not produce the degree certificates before the authorities.

9. In view of the statement made in the counter affidavit that the promotion counseling for B.T Assistant (Science) has been completed, the the interim directions sought for by the petitioner to direct the respondent to permit the petitioner to participate in the counselling to be held on 05.02.2022 has become infructuous.

10. It is clear from the records, even though the interim order is granted by this Court that any appointment to B.T. Assistant (Science) is subject to outcome of this writ petition, in view of the undisputed fact that though the petitioner wrote his final examination on 23.10.2020 and the results were declared on 05.10.2021, the petitioner's B.Sc qualification was entered into his service register only on 23.11.2021, therefore the respondents have not taken into consideration the petitioner's name as the panel was prepared as on 01.01.2021. In view of the said fact, the decision relied upon by learned counsel for the petitioner will not support the case of the petitioner. However this Court is of the opinion that the ends of justice would be met if the respondents are directed to consider the claim made by the petitioner. Accordingly, the following directions are issued;

- i. Writ petitioner is directed to submit the provisional certificate and mark sheets acquired by him in B.Sc (Physics) to the respondent, within a period of four weeks from the date of receipt of a copy of this order.



ii. Based on the aforesaid certificates, the respondent shall consider and take appropriate decision on the claim made by the petitioner and communicate the same to the petitioner within a period of eight weeks thereafter.

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11. With the above, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(Digit)

//True Copy//

Sub Assistant Registrar

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To

1. The Director of Elementary Education
College Road,
Chennai-6.

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3. The District Educational Officer,
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4. The Block Educational Officer,
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Ariyalur District.

+1cc to Mr.S.N.Ravichandran, Advocate, S.R.No.18231
+1cc to the Government Pleader, S.R.No.18174

W.P.No.1643 of 2022
and WMP.No. 1790 and 1793 of 2022

AJS (CO)
CB(24/03/2022)