



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2022

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.17241 OF 2020

AND WMP.NOS.21313, 21317, 21318 & 21319 OF 2020

- 1.P.Sankar
- 2.V.Senthilnathan
- 3.E.Revathi
- 4.S.Navaladi
- 5.K.Baby Sakila
- 6.A.S.Sakthivel
- 7.K.Muralitharan
- 8.A.Santhamani

...Petitioners

Vs

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Secretariat,
Chennai-600 009.
- 2.The Teachers Recruitment Board,
Rep. by its Chairman,
4th Floor, E.V.K.Sampath Maligai,
D.P.I.Campus, College Road,
Chennai-600 006.
- 3.The Director of School Education,
O/o.The Directorate of School Education,
College Road, Nungambakkam,
Chennai-600 006.
- 4.The Member Secretary,
Teachers Recruitment Board,
4th Floor, E.V.K.Sampath Maligai,
College Road, Chennai-6.

...Respondents

PRAYER : This Writ Petition has been filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorified Mandamus, to call for the records relating to the impugned order passed by the 2nd respondent vide his impugned proceedings Nil dated 28.10.2020 (published in the official website of the TRB on 28.10.2020) insofar as it reserves the posts of Physical



Education Teacher under the petitioner's respective categories are concerned and the consequential impugned order passed by the 3rd respondent vide his proceedings Na.Ka.No.40207/C5/E4/2015 dated 28.10.2020 and quash the same as illegal and consequently direct the respondents to consider the petitioner for appointment to the post of Physical Education Teacher under the petitioner's respective categories in the available notified vacancies within the period that may be stipulated by this Hon'ble Court.

For Petitioner : Mr.Ajmal Khan, Senior Counsel
for Mr.H.Mohamed Imran

For Respondents : Mr.V.Nanmaran,
Additional Government Pleader
[for R1 and R3]
Mr.C.Kathiravan,
Special Government Pleader
[For R2 & R4]

O R D E R

This Writ Petition has been filed to call for the records relating to the impugned order passed by the 2nd respondent vide his impugned proceedings Nil dated 28.10.2020, insofar as it reserves the posts of Physical Education Teacher under the petitioners' respective categories are concerned and the consequential impugned order passed by the 3rd respondent vide his proceedings Na.Ka.No.40207/C5/E4/2015 dated 28.10.2020 and to quash the same as illegal and consequently, direct the respondents to consider the petitioners for the appointment to the post of Physical Education Teacher under the petitioners' respective categories in the available notified vacancies within the period that may be stipulated by this Court.

2.Brief facts of case:

(i).The petitioners are qualified with Bachelor of Physical Education degree. The second respondent has issued a notification vide Notification No.5 of 2017, dated 26.07.2017, to the post of Special Teacher and the qualifications to the said post were also prescribed in the notification. Since, the petitioners are having sufficient qualification, they have applied for the said post and participated in the written exam and they were also called for the certificate verification in the ratio of 1 : 2 and the petitioners certificates were in order. In pursuance thereof, the second respondent vide his proceedings Nil dated 13.08.2008 has published the tentative provisional selection list, in which petitioner's names were also included.



(ii).In the meanwhile, the writ petitions came to be filed before the Madurai Bench of this Court, inter alia contending that some of the qualifications are not mentioned in the notification, thereby petitioners' chance of selection got deprived of. In this circumstances one Mrs.B.Sivakami, has filed a writ Petition in W.P.(MD).No.21650 of 2018, wherein, the Madurai Bench of this Court has disposed the above writ petition by holding that the Notification No.5/2017, dated 26.07.2017 is ultra virus. Aggrieved against the said Judgment, an appeal in W.A.(MD).No.65 and etc of 2019 has been filed by the respondents as well as many other selected candidates and by an order dated 12.02.2019, the writ appeal was allowed by stating that the selected candidates are entitled to get their appointment order. Aggrieved over the same, review applications were filed and the Hon'ble Division Bench of this Court at Madurai Bench vide order dated 20.08.2019 has held that all the petitioners are eligible and has directed the Teacher Recruitment Board to consider the candidature of the petitioners along with the selected candidates and it was restricted only in respect of the petitioners therein.

(iii).In the meanwhile, the second respondent vide his impugned proceedings Nil dated 28.10.2020 has published the revised provisional selection list for appointment to the post of Physical Education Teacher and it contains the names of various candidates, whose names were not included in the earlier provisional selection list. Without conducting the certificate verification, the second respondent proposed to conduct counselling for issuing posting orders. In consequent thereto the third respondent vide his impugned proceedings in Na.Ka.No.40207/C5/E4/ 2015, dated 28.10.2020, has proceeded with counselling for issuing posting order and the same was scheduled to be held on 03.11.2020 and 04.11.2020. Further, out of 632 posts 561 posts were filled up and 71 remaining notified vacancies are reserved on the ground that the candidates in the respective category with the particular special reservation are not available. The petitioners have secured cut off marks. When the petitioners are very much available with the required cut off marks, the said posts should have been filled up by the candidates belonging to the respective communal category. Further, first proviso to Section 27(c) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, if the Ex-serviceman candidate is not available, it should be filled up by candidate belonging to the respective communal category and as such reserving the post without considering their candidature is violative of Article 16 of the Constitution of India. Further, the post reserved for the candidates studied in Tamil Medium should also be considered by the candidate belonging to the respective communal category. Hence, the present writ petition.



3(i).The learned counsel appearing for the petitioner would submit that though the writ petitioners had challenged the impugned proceedings of the second respondent/TRB for non-inclusion of their name in the selection list for appointment to the post of Physical Education Teacher, during the course of arguments he fairly stated before this Court that the respondents have filled up only 561 vacancies out of notified vacancies of 632 in the Department of Directorate of School Education and if the remaining vacancies are filled up, the petitioners would get chance. Hence, prays that a direction may be given to fill up the remaining vacancies by the second respondent/TRB.

4(i).The learned counsel for the respondents would submit that the second respondent has filed a counter affidavit, wherein, it is stated that the Board issued notification calling for application for the post of Special Teacher vide Notification No.5/2017, dated 26.07.2017. The petitioners have applied for the post of Special Teachers (Physical Education Teacher) pursuant to the notification. After the completion of selection, the Board has published the provisional Selection list for the notified vacancies on 12.10.2018. After the publication of result, some of the candidates filed writ petitions before this Court to consider the qualification as C.P.Ed, D.P.Ed as eligible one for the said recruitment of Physical Education Teacher and this Court in W.A.No.3812 of 2018 has directed to Government to consider the candidature of the appellants in terms of the Government order.

4(ii).Further, following the judgments delivered by the this Court in various cases, W.A(MD).No.110 of 2019, W.A.(MD).65 of 2019, etc, the Board has decided to consider the equivalent G,O's, re-verified the Certificate Verification and awarded the weightage marks as per the available CV documents. The Board has withdrew the provisional selection list for the post of Physical Education Teachers published on 12.10.2018 and the Board has released the revised provisional selection list for the post of Physical Education Teachers on 28.10.2020. Further, he would submit that as per the Notification No.05/2017, the Board has notified for 663 vacancies, under Directorate of School Education the Board notified 632 vacancies for which the Board has taken steps to fill up 561 posts as per the revised Provisional selection list dated 28.10.2020 and the remaining 31 vacancies were notified for different departments. Further, he submitted that the Board has followed the rules of reservation as notified in the Notification No.5 of 2017 for the post of Special Teachers (Physical Education Teachers) and submitted that Board requires three months time to proceed with the selection process.



5. Recording the statement made by the learned counsel for the respondents that the Board requires three months times to complete the recruitment, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VIII)

// True Copy //

Sub Assistant Registrar

Dua

To

1. The Secretary to Government,
The State of Tamil Nadu,
School Education Department,
Secretariat,
Chennai-600 009.
2. The Chairman,
Teachers Recruitment Board,
4th Floor, E.V.K. Sampath Maligai,
D.P.I. Campus, College Road,
Chennai-600 006.
3. The Director of School Education,
O/o. The Directorate of School Education,
College Road, Nungambakkam,
Chennai-600 006.
4. The Member Secretary,
Teachers Recruitment Board,
4th Floor, E.V.K. Sampath Maligai,
College Road, Chennai-6.

+8ccs to M/s. Ajmal Associates, Advocate, S.R.No.11057

+1cc to Mr.C.Kathiravan, Advocate, S.R.No.10705

W.P.No.17241 of 2020 &
WMP.Nos.21313, 21317, 21318
& 21319 of 2020

MT (CO)
RVM(25/03/2022)