



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.2640 of 2015

and

M.P(MD)Nos.1,2 and 3 of 2015

S.Subashini

... Petitioner

Vs.

1.The Government of Tamil Nadu
Represented by the Principal Secretary to Government,
Higher Education Department,
Secretariat,
Fort St.George,
Chennai-600 009.

2.The Member Secretary,
Teachers Recruitment Board,
E.V.K.Sampath Maligai,
College Road,
Chennai-600 006.

3.The Director of Collegiate Education,
E.V.K.Sampath Maligai,
College Road,
Chennai-600 006.

4.K.P.Lochanambal

5.C.Chandrasekar

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned provisional List of candidates selected after oral interview published by the second respondent in the website on 27.01.2015 for the Direct Recruitment for Assistant Professors in Government Arts and Science College under Tamil Nadu Collegiate Educational Service-2012, quash the same as far as Schedule Caste category in Computer Science subject is concerned and consequently revise the selection list by selecting the petitioner under SC Women Category for



appointing as Assistant Professor with all consequential benefits in par with other candidates.

For Petitioner : Mr.L.Shaji Chellan

For Respondents : Mr.V.Om Prakash
Government Advocate(Civil Side)
for R1 and R3
Mr.VR.Shanmuganathan
for R2
Mr.T.Lajapathi Roy
for R4 and R5

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ORDER

This writ petition has been filed to quash the impugned provisional list of candidates selected after oral interview published by the second respondent in the website on 27.01.2015 for the direct Recruitment for Assistant Professors in Government Arts and Science College under Tamil Nadu Collegiate Educational Service-2012 and consequently revise the selection list by selecting the petitioner under SC Women Category for appointing her as Assistant Professor.

2. The brief facts of the case are that the petitioner has completed MCA in first class in April 2002 and completed M.Phil., degree and passed the State Eligibility Test (SET) for Lectureship in the year 2012. The petitioner belongs to SC community and is have teaching experience of ten years. Thus, she is fully eligible to be appointed as Assistant Professor in colleges as per UGC Regulations. The Teachers Recruitment Board issued Advertisement No.4/2013, dated, 28.05.2013 to recruit Assistant Professors in Tamil Nadu Collegiate Educational Service-2012. As per the notification, totally there are 1093 vacancies to be filled in various subjects throughout the State of Tamil Nadu. In Computer Science subject, 100 vacancies are to be filled up as per the prospectus. Out of 100 vacancies in the Computer Science subject, 15 seats are reserved for SC candidates. In the SC category, 8 posts are for General turn and one post for SC General Tamil Medium turn. Further, there are 5 vacancies in SC Women turn and one post in SC Women Tamil Medium turn. Since there is no Tamil Medium in Computer Science, the Tamil Medium candidates are added to the SC General and Women turns respectively. In the impugned provisional selection list, 16 SC candidates are selected and thus in practical, there are 10 vacancies in the SC General turn and 6 vacancies in the SC Women turn. As per the UGC Regulation, 2010, the educational qualification stipulated for Assistant Professor is Post Graduate Degree with



SET/NET or Ph.D. The UGC Regulations clearly stipulates that PG Degree with SET/NET is equivalent to Ph.D. So both Ph.D. and PG with SET/NET are to be treated equally and should be awarded equal marks. But strangely in the prospectus issued by the second respondent in clause 3.2, Ph.D. holders awarded 9 weightage marks and P.G with SET/NET candidates are awarded only 5 marks for this educational qualification. Hence the contention of the petitioner is that the marks should be awarded equally.

3. The petitioner appeared for certificate verification and oral interview with TRB Roll No.13AP1608775 and out of 34, she was awarded with 21 marks. On 27.01.2015, the second respondent in his website published the provisional list of candidates selected after oral interview. In that list, 16 SC candidates are selected against the notified vacancies of 15. Thus, in the impugned selection list, there are 10 SC General candidates and 6 SC Women candidates. In the provisional selection list SC merit, SC General and SC Women turns are not properly followed and hence the petitioner lost the opportunity to be included in the selection list. Apart from that, the fourth respondent, who is placed as first rank holder is not a Ph.D. holder as on the date of notification. She was awarded 27 marks out of 34. Further, the fifth respondent, who is in the fourth rank of SC category is also not a Ph.D. holder as on the date of notification. But he was awarded with 25 marks. The respondents 4 and 5 and another person, namely, Meena are not entitled for 9 marks for their educational qualification as per UGC Regulation. The educational qualification as on the date of notification shall alone be considered for all selections purposes. The fourth respondent K.P.Lochanambal registered for Ph.D. on 04.07.2008 in Mother Teresa Women's University, Kodaikanal in part time scheme and she was awarded with Ph.D. Degree only on 28.01.2014. The fifth respondent C.Chandrasekar was awarded with Ph.D. Degree from Manonmaniam Sundaranar University only on 01.08.2013 in part time scheme. Thus, it becomes clear that both fourth and fifth respondents have been awarded with Ph.D. after the issuance of notification, dated, 28.05.2013. However, the official respondents have considered the third notification date as cut-off date, which is absolutely illegal. Hence, the petitioner has challenged the impugned selection list.

4. The respondents 4 and 5 submitted that the second respondent has considered their candidature based on the date of third notification. According to them, they have completed as on the date of third notification. Therefore, they should be included in the list. Moreover, they have obtained more marks. As per the marks, the fourth and fifth respondents were granted the post.



5. The second respondent has filed a counter stating that the fourth respondent has produced Ph.D. certificate in Computer Science on 25.06.2013 on the date of Viva-voce. The cut-off date fixed by the Teachers Recruitment Board is 12.08.2013. Within such period, the fourth respondent has completed her Ph.D. degree so that her candidature is taken into account. As far as fifth respondent is concerned, he has produced his Ph.D., certificate in Computer Science in the month of August, 2013 on the date of viva voce examination held on 01.08.2013. Therefore, his candidature was also considered.

6. Heard Mr.S.Shaji Chellan, learned counsel appearing for the petitioner, Mr.V.Om Prakash, learned Government Advocate appearing for the respondents 1 and 3, Mr.VR. Shanmuganathan, learned counsel for the respondent 2 and Mr.T.Lajapathi Roy, learned counsel for the respondents 4 and 5 and perused the records.

7. As rightly pointed out by the petitioner, the official respondents have taken the third notification date as cut-off date, which is absolutely erroneous, even according to the third notification the cut-off date is 27.05.2013. The third notification, dated, 18.11.2013 specifically states as follows:

*"No individual call letter will be sent through post. The candidates are hereby informed that they have been called for Certificate Verification only based on the particulars furnished by them in their applications. The particulars furnished in their application will be verified with reference to the cut-off date **27.05.2013** prescribed in the notification."*

8. There is a specific mention that the cut-off date as 27.05.2013 in the third notification date. Hence, the date of third notification cannot be taken into consideration. But the respondents 4 and 5 stating that the third notification date ought to be considered. In the present case, there is a specific cut-off date mentioned in the notification and the same cannot be changed. Therefore, as per the cut-off date mentioned in the third notification, the respondents 4 and 5 are not qualified for the said post. In such circumstances, the respondents 4 and 5 are not qualified.

9. The learned counsel for the respondents 4 and 5 submitted that for the past 8 years they are in service and now they are on their 50s. If the present appointment is cancelled, they cannot seek any further appointment in the Government service or in the private sector.



10. It is seen from the records that one Meena has not been appointed in the service. Since Vasantha is not pressing the selection by withdrawing the writ petition, the present writ petitioner Subashini alone ought to be accommodated in the said post. Therefore, this Court is of the considered view that if the second respondent is directed to accommodate the said Subashini in the place of Meena, the entire issue can be settled. Hence, the second respondent shall issue orders directing the respondents 1 and 3 to issue appointment order to the writ petitioner Subashini and thereafter the respondents 1 and 3 shall issue an appointment order in favour of the petitioner. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

11. Before parting, this Court is of the considered opinion, the second respondent is not conducting the recruitment process as per the UGC regulations. There are several allegations against the second respondent and this is one such case. The second respondent shall not commit any such mistakes, which is leading to such confusions among the eligible candidates. In future, the second respondent shall conduct the recruitment process strictly in accordance to law.

12. With the observations, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

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Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Principal Secretary to Government,
The Government of Tamil Nadu,
Higher Education Department,
Secretariat,
Fort St.George,Chennai-600 009.



2.The Director of Collegiate Education,
E.V.K.Sampath Maligai,
College Road,
Chennai-600 006.

3.The Member Secretary,
Teachers Recruitment Board,
E.V.K.Sampath Maligai,
College Road,
Chennai-600 006.

+1 CC to M/s.L. SHAJI CHELLAN, Advocate (SR-18454[F] dated
13/04/2022)

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-18885[F] dated
18/04/2022)

+1 CC to M/s.SPL.GP. (SR-18562[F] dated 13/04/2022)

W.P. (MD) .No.2640 of 2015
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MGJ(16.05.2022) 6P 7C