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W.A.No.970 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2023

CORAM :

THE HON'BLE JUSTICE S.VAIDYANATHAN

AND

THE HON'BLE MRS.JUSTICE R.KALAIMATHI

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1.The Principal Secretary,
Teachers Recruitment Board,
College Road,
Chennai – 600 006.

2.The Director,
Teachers Recruitment Board,
College Road,
Chennai – 600 006.

3.The Member Secretary,
Teachers Recruitment Board,
College Road,
Chennai – 600 006.

.. Appellants

Vs

1.K.Mahadevi

2.The Joint Secretary,
Department of School Education,
Secretariat, Chennai-600 009.

.. Respondents



W.A.No.970 of 2023

Prayer: Appeal under Clause 15 of the Letters Patent against the order dated 08.09.2022 passed by the learned Single Judge in W.P.No.44215 of 2016.

For the Appellants : Mr.Neelakandan
Addl. Advocate General
assisted by
Mr.K.Sathish Kumar

For the Respondents : Mr.V.T.Narendiran
Mr.A.P.Rajaprabhu
for respondent No.1

: Mr.P.Muthukumar
State Government Pleader
for respondent No.2

JUDGMENT

(Delivered by *S.Vaidyanathan, J.*)

Questioning the correctness of the order passed by the third appellant/Member Secretary, Teacher's Recruitment Board in Na.Ka.No.705/A3/2016, dated 27.10.2016, a writ petition was filed by the first respondent/writ petitioner seeking a consequential direction to appoint her as a PG Assistant Grade-I for the year 2013-2014 and 2014-2015 in the reserved category of Scheduled



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Tribe.

2. The first respondent/writ petitioner participated in the recruitment process pursuant to the notification issued and she was successful in the written examination and attended the viva-voce on 17.12.2015. The first respondent/writ petitioner has produced all the certificates which have been duly verified by the appellants and that the first respondent/writ petitioner was asked to produce a copy of the Tamil Medium certificate for the course in the Master's Degree pursued by her. Even though all other certificates were produced, the M.A. Degree certificate alone was not produced by her on the same day, but on the very next day.

3. The appellants herein contended that the Tamil medium certificate was produced after the result was published and that the certificates required ought to have been produced by the first respondent/writ petitioner on the day when the certificate verification was done and inasmuch as the first respondent/writ petitioner did not produce the Tamil medium certificate for PG Degree on the date of certificate verification, her name was not



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considered.

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4. The learned Single Judge after hearing the arguments and taking note of the fact that the post in which the first respondent/writ petitioner was selected was treated as backlog vacancy for Scheduled Caste Women Tamil medium, held that she is entitled to be appointed and that the selection of the first respondent/writ petitioner was right and the benefit of appointment cannot be denied on the ground that she has not produced the M.A. Degree Tamil medium certificate.

5. It is not that the first respondent/writ petitioner has not produced any certificate. The fact that the first respondent/writ petitioner has studied M.A. Degree was accepted by the appellants, but the Tamil medium certificate alone was not produced by her on 17.02.2015. The learned Single Judge held that the selecting authority ought not to have rejected the case of the downtrodden woman who has studied M.A. Degree in Tamil medium on that score alone.



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6. It has been brought to our attention that some other candidates, who have produced degree certificates after selection was over, were accommodated and the first respondent/writ petitioner alone was not considered. When the first respondent/writ petitioner has studied M.A. Degree in Tamil medium and the said factum of study has been accepted by the appellants, the non-production of the certificate on the very same day cannot be a ground to deprive the Scheduled Tribe woman an opportunity of employment which she earned under challenging circumstances.

7. Even though learned Additional Advocate General appearing for the appellants submitted that the backlog vacancy was carried forward to the subsequent year and the same was filled up, we are of the view that non-availability of vacancy cannot be a ground to deprive the first respondent/writ petitioner to be accommodated to the post of P.G. Assistant (History).

8. Article 38 of the Constitution of India prescribes that the



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State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life. The clause (2) of Article 38 of the Constitution of India minimizes the inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities only amongst individuals but also amongst 'groups of people' residing in different areas or engaged in different vocations. The 'groups of people' means SC/ST specified in the Constitution. That apart, the economic empowerment of Scheduled Castes and Scheduled Tribes, as enjoined under Article 46, is a constitutional objective. The State is bound to promote with special care the economic interests of the weaker sections of the people belonging to Scheduled Castes and Scheduled Tribes and protect them social injustice and all forms of exploitation. However, in the case on hand, instead of protecting and caring for the economic interest of a candidate belonging to such weaker section, the authorities have taken a pedantic view sticking to technicalities. When a person belonging to such group, after facing ordeals, secures the required qualification and stands



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qualified for the post, rejection of her candidature on the sole ground that there was one day's delay in furnishing a certificate is uncalled for.

9. We have also considered the vital fact that the first respondent/writ petitioner is aged around 50 years now and is over-aged for any selection hereinafter and it is also not known when the Government is going to notify the vacancies next. The non-consideration of her candidature on technical reasons is uncalled for in view of the constitutional mandate, supra.

10. For the foregoing reasons, the order passed by the learned Single Judge does not warrant any interference. The appellants are directed to appoint the first respondent/writ petitioner to the post of P.G. Assistant (History) in any of the existing vacancies. If there is no vacancy as on date, the appellants shall create a post and appoint the first respondent/writ petitioner in due compliance of the direction aforesaid. In any event, the appellants are expected to appoint the first respondent/writ



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petitioner before the commencement of the next academic year 2023-2024 and report compliance on 15.06.2023. There will be no order as to costs. Consequently, C.M.P.No.9635 of 2023 is closed.

List this appeal for reporting compliance on 15.06.2023.

(S.V.N., J.) (R.K.M., J.)
26.04.2023

Index : Yes/No
Neutral Citation : Yes/No
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To:

The Joint Secretary,
Department of School Education,
Secretariat, Chennai-600 009.



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S.VAIDYANATHAN, J.
AND
R.KALAIMATHI, J.

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