



W.P.No.23474 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06..11.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.23474 of 2009

and W.M.P.No.23145 of 2020

K.Chitra

... Petitioner

Vs

1.State of Tamil Nadu Represented
By its Secretary to Government,
Higher Education Department,
Fort St.George, chennai – 600 009.

2.The Chairman,
Teachers Recruitment Board,
4th Floor, E.V.K. Sampath Maligai,
College Road, chennai – 600 006.

3.The Director,
Higher Education Department,
4th Floor, EVK Sampath Maaligai,
College Road, Chennai – 600 006.

4.The Member Secretary,
Teachers Recruitment Board,
4th Floor, E.V.K. Sampath Maligai,
College Road, chennai – 600 006.

5.G.Renukadevi

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6.S.Sreekala

7.P.Shanmughapriya

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records and to quash the impugned order of the 2nd respondent dated 12.10.2009 in Rc.No.3487/A6/2009 and consequently direct the respondents 1 to 4 to appoint the petitioner for the post Lecturer in any one of the existing vacant place and to avail service benefits as per law and pass such further orders.

For Petitioner : Mr.P.Ganesan

For RR1 and 3 : Mr.S.Ravichandran
Additional Government Pleader

For RR2 and 4 : Mr.C.Kathiravan
Standing Counsel for TRB

For R5 : No appearance

For R6 : Dismissed vide Court order
dated 12.01.2012

For R7 : Mr.Arun Vishwa
for M/s.Achari & Antoni Associates

ORDER

This Writ Petition had been filed challenging the order of the 2nd respondent dated 12.10.2009, wherein, the representation of the petitioner was rejected and to direct the respondents to appoint the

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petitioner to the post of Lecturer in any one of the existing vacant place and to avail service benefits as per law.

2. Heard Mr.P.Ganesan, learned counsel for the petitioner and Mr.S.Ravichandran, learned Additional Government Pleader appearing for respondents 1 and 3 and Mr.C.Kathiravan, learned counsel appearing for respondents 2 and 4 and Mr.Arun Vishwa, learned counsel for M/s.Achari & Antoni Associates, appearing for 7th respondent.

3. The learned counsel for the petitioner would submit that the petitioner is a Post Graduate Degree holder in Geography and had also obtained a M.Phil Degree in Geography from Bharathidasan University in the year 2002. The petitioner had also worked as Guest Lecturer in Government Arts College (Autonomous), Kumbakonam for a period of 6 months prior to obtaining M.Phil Degree and further for a period of 6 months after obtaining M.Phil Degree. The 2nd respondent had called for direct recruitment of Lecturers in the Government Arts and Science College and Colleges for Education in the year 2006-2007. The

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petitioner, during the course of the interview had obtained 8 marks and that she was entitled for 4 marks based on her experience as Guest Lecturer in the Government Arts College (Autonomous), Kumbakonam. However, she was not selected and 6th respondent was selected. When she had made a representation questioning her non-selection, it was informed by the respondent that the teaching experience only after the completion of M.Phil Degree alone would be taken into consideration and therefore, she was awarded only 10 marks and therefore, not entitled for selection.

4. Thereafter, the respondent had again called for a direct recruitment for the post of Lecturers in which she had participated. The petitioner had secured 7 marks in the interview and was granted 4 marks for her previous experience and the petitioner had secured 11 marks in all. However, the 5th respondent who had only secured 6 marks in the interview was granted 8 marks for the teaching experience and she was appointed. Immediately, the petitioner had made a

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representation indicating that the reply that she had received for her non-selection in the year 2006-2007 recruitment and claimed that the petitioner had been wrongly given 11 marks and she would be only entitled to 9 marks and likewise the 5th respondent would also be entitled to only 2 marks and not 8 marks for the teaching experience as her teaching experience before obtaining the Ph.D Degree should not be counted. When that be so, the 5th respondent had obtained only 8 marks and the petitioner would have obtained 7 marks qualifying herself to be selected. But, however, the same had been rejected by the respondent by stating that the teaching experience prior to the M.Phil Degree would also to be counted. He would submit that the respondents have been taking inconsistent stand by contending that for the selection in the year 2006-2007, the respondents have claimed that the teaching experience prior to M.Phil Decree would not be taken into consideration. But, however, in the present selection they contend that the previous experience before obtaining M.Phil Degree will be taken into consideration.

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5. According to him, the said stand of the respondent is only to suit the persons whom they have already decided to appoint and to unsuit, the petitioner who is rightly qualified to be appointed. Hence, he would seek indulgence of this Court to set aside the order of rejection of the petitioner's representation and to direct the respondents to appoint the petitioner in any vacant place as according to him there are number of vacancies available in the post of lecturer in the Government colleges.

6. Countering his arguments, learned counsel appearing on behalf of the respondent/Government would contend that the Government had issued an order in G.O.Ms.No.306, dated 10.09.2007, whereby, 2 marks for each year subject to a maximum of 15 marks was sought to be given as a weightage marks for the candidates who had teaching experience in Universities/Government/Government aided colleges/self aided colleges in the approved post. He would submit that there is no criteria as to the qualification that they held while they were

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appointed as a teaching staff in the respective colleges. Therefore, he would submit that the criteria upon which the petitioner was not given marks cannot be applied in the present case as the recruitment relied upon by the petitioner was of the year 2006-07 for which this Government Order could not be applied. But, the present recruitment is of the year 2009 for which this Government order would be applicable. Therefore, the claim of the petitioner is too far fledged and cannot be entertained by this Court and there is no infirmity in the order impugned in this Writ Petition and therefore, he would seek this Writ Petition to be dismissed.

7. I have considered the rival submissions made by the learned counsels appearing for their respective parties and perused the materials available on record before this Court.

8. Admittedly, the petitioner's candidature was not considered as she did not get the required marks for being appointed during the process of that recruitment. The reason assigned by the respondent in

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the reply to the Right to Information Act was that the petitioner's period of service of 6 months prior to her acquiring the M.Phil Degree could not be counted. It is also an admitted fact that the Government had issued G.O.Ms.No.306 on 10.09.2007 prescribing weightage marks for the teaching experience that had been put in by the respective candidates. This could only be applied prospectively.

9. A perusal of the Government order does not envisage any distinction as regards to the qualification based upon which they had been appointed as a teaching staff in a college. When that be so, the claim of the petitioner to disallow certain marks that has been awarded in favour of the 5th respondent cannot be countenanced. Further, the claim of the petitioner to apply the same parameter as applied to her in the year 2006-07 cannot also be countenanced for the reason that in 2007 Government orders have been issued prescribing guidelines for grant of weightage marks.

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10. For the aforesaid reasons, I do not find any infirmity in the order impugned in this Writ Petition. In fine, this Writ Petition fails and is dismissed. However, there shall be no order as to costs.

11. In view of the order made in M.P.No.1 of 2009 dated 16.11.2009 had been made absolute, and vide order dated 22.03.2010, W.M.P.No.23145 of 2020 is not maintainable and therefore is rejected.

06.11.2023

gba

Index : Yes/No

Speaking order : Yes/No

Neutral Citations : Yes/No

To

1.State of Tamil Nadu Represented
By its Secretary to Government,
Higher Education Department,
Fort St.George, chennai – 600 009.

2.The Chairman,

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W.P.No.23474 of 2009

Teachers Recruitment Board,
4th Floor, E.V.K. Sampath Maligai,
College Road, chennai – 600 006.

3.The Director,
Higher Education Department,
4th Floor, E.V.K. Sampath Maligai,
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4.The Member Secretary,
Teachers Recruitment Board,
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College Road, chennai – 600 006.

K.KUMARESH BABU,J.

Gba

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