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W.P.No.19729 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.09.2023

Coram:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.19729 of 2018
& WMP No.33570 of 2018

C.Jeevapriya

... Petitioner

Vs.

1. The Secretary to Government,
Agriculture Department,
Fort St. George, Chennai – 9.
2. The Secretary,
Tamil Nadu Public Service Commission,
V.O.C.Nagar, Park Town,
Chennai – 3.
3. The Director of Agriculture,
Chepauk, Chennai – 5.

.... Respondents

Prayer: PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the entire records connected with the impugned order passed by the second respondent vide Memo.1767/OTD-E1/2012 dated 25.06.2018 and quash the same and direct the 2nd and 3rd respondents to appoint the petitioner as Agriculture Officer (Extension) 2011-12 on the basis of the reserve list published by the 2nd respondent dated 20.02.2014.



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For Petitioner : Ms.N.Lavanya
for Mr.S.N.Ravichandran
For Respondents : Mr.T.K.Saravanan
Government Advocate – R1 & R3
Mr.I.Abrar Md. Abdullah - R2

ORDER

This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking records relating to an order passed by the second respondent, the Secretary, Tamil Nadu Public Service Commission dated 25.06.2018 and quash the same and direct the second and third respondents to appoint the petitioner as Agriculture Officer (Extension) for the year 2011-12 in accordance with the reserve list published by the second respondent dated 20.02.2014.

2. In the affidavit filed in support of the Writ Petition, it had been stated that pursuant to a Notification in Notification No.28/2012 dated 13.08.2012 inviting applications for the post of Agriculture Officer (Extension), the petitioner had applied in the category of Scheduled Caste (Arunthathiyar) (woman). The method of selection was by way of written examination which was scheduled to be held on 28.10.2012. The minimum qualification was a degree in Agriculture and adequate knowledge in Tamil.

3. The petitioner wrote the written examination and had passed the same and was also invited to attend the oral test. Thereafter, the marks



obtained by the candidates, both in the written examination as well as in the oral test, were published. The petitioner had secured 195 marks in the written examination and 24 marks in the oral test, totalling 219 marks. It had been stated that another candidate by name Sathya, who belonged to Scheduled Caste (Arunthathiyar) (woman) and had also secured 219 marks, was ranked above the petitioner on the ground that she was senior in date of birth.

4. The petitioner also belonged to Scheduled Caste (Arunthathiyar) (woman) and claimed that she had been wrongfully not selected. She took recourse to another Writ Petition in W.P.(MD) No.17991 of 2013 by other candidates, wherein the Madurai Bench of the Madras High Court by order dated 06.12.2013 directed the Tamil Nadu Public Service to publish the reserve list of candidates who wrote the examination for the post of Agriculture Officer (Extension) for the year 2011-12.

5. It had been stated that in the said reserve list, the petitioner was placed in serial number 1 insofar as Scheduled Caste (Arunthathiyar) (woman) category is concerned. But there were other candidates, who belonged to Scheduled Caste (Arunthathiyar) (General), who were placed above the persons in the reserve list in the category of Scheduled Caste (Arunthathiyar) (woman).

6. The petitioner claimed that since she belonged to Scheduled Caste



(Arunthathiyar) (woman) category and had secured 219 marks, whenever a vacancy had arisen, and the said vacancy had actually arisen, she should have been accommodated, but rather a candidate from Scheduled Caste (Arunthathiyar) (General) had been accommodated. Expressing grievance at that particular selection, the present Writ Petition has been filed seeking interference with that particular selection.

7. A counter affidavit had been filed by the respondents, wherein it had been stated that 39 candidates had been supplementally selected from the reserve list against those who had either not joined or joined and left the post thereafter. The method of selecting those from the reserve list was in accordance with the roster and it was stated that the candidates belonging to Scheduled Caste (Arunthathiyar) (General) in the reserve list would be selected first. Totally there are three persons belonging to Scheduled Caste (Arunthathiyar) (General) category in the reserve list. Hence, the candidate who got highest mark in that category, viz., 235.50 marks, had been given appointment.

8. It had been stated that if any candidate had subsequently resigned or walked away from the post, the second candidate in the Scheduled Caste (Arunthathiyar) (General) would be offered the post and if the said candidate also resigned, the third candidate would be offered the post. Only thereafter,



the candidature of the petitioner in the category of Scheduled Caste (Arunthathiyar) (woman) will be considered.

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9. This being a policy decision of the Government, the Court can never enter into a discussion in that particular aspect. The Court can only examine whether the reserve list was being properly exhausted and whether anybody was benefited out of turn. But that does not seem to be the case in this selection, for the year 2011-12, for which the petitioner claimed that she should be selected.

10. Learned counsel for the respondents also pointed out these particular facts and it is seen that in the Scheduled Caste (Arunthathiyar) (General) category, there were three candidates placed in the reserve list and if none of them had opted to join, then the post would have been given to the petitioner who belonged to Scheduled Caste (Arunthathiyar) (woman). But without exhausting that particular reserve list, the petitioner cannot claim any right over such selection.

11. It is not denied by the petitioner that she had secured 219 marks and was younger in age to Ms.Sathya, who also secured 219 marks. It is not in dispute that the candidate who had been given appointment as Agriculture Officer (Extension) belonged to Scheduled Caste (Arunthathiyar) (General) category and had secured 235.50 marks, more than what the petitioner



secured. It is also not denied by the petitioner that the Scheduled Caste (Arunthathiyar) (General) category would be exhausted first before considering the category of Scheduled Caste (Arunthathiyar) (woman), since this particular rotation is part of the Notification itself and is not a pattern which had been introduced after the examinations had been conducted.

12. In view of this particular fact, the claim of the petitioner that she should be selected for the post of Agriculture Officer (Extension) cannot be considered by this Court.

13. Learned counsel for the petitioner widened the arguments by placing reliance on Section 26(5) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. Even before examining that particular provision, it must be stated that the said Act had received the assent of the Governor on 14.09.2016 and was published in the Tamil Nadu Government Gazette on 15.09.2016 and was further amended vide Amendment Act 30 of 2017 dated 26.07.2017. Therefore, the applicability of the provisions to the selection process that was held for the year 2011-12 is highly doubtful and no arguments had been advanced in this regard.

14. In any event, to address the contention of the learned counsel for the petitioner, let me extract Section 26(5) below:

26. Appointment of woman:

.....



(5) If a qualified and suitable woman candidate belonging to Scheduled Castes, Scheduled Tribes, Backward Class Muslims, Backward Classes, Most Backward Classes or Denotified Communities or General Turn is not available for selection for appointment in the turn allotted for women in the cycle, then, the turn so allotted shall go to a male candidate within the respective category. In respect of the posts to which the rule of reservation of appointments does not apply, then, the turn so allotted shall go to the next male candidate.

15. Learned counsel would state that only if a qualified and suitable woman candidate belonging to a particular category, in this case, Schedule Caste (Arunthathiyar), is not available for appointment, then alone, in the turn allotted for woman, can the post be allotted to a male candidate but not otherwise.

16. However, in the instant case, the turn of the petitioner would come only after exhausting the Scheduled Caste (Arunthathiyar) (General) category. Therefore, the aforesaid provision, quite apart from its inapplicability to a selection process of the year 2011-12, would not come to the rescue of the petitioner herein.

17. Learned counsel for the petitioner also placed reliance on the judgment of a Division Bench of this Court dated 28.06.2023 in W.A.Nos.245 of 2019 and 622 of 2022 (*C.Palani V. The District Educational Officer, Thirupattur, Vellore District and others*). This judgment is with respect to the promotion to the post of Secondary Grade Teacher when a regular



approved vacancy arose. The vacancy had been upgraded as B.T.Assistant and the school was permitted to fill up the vacancy by calling for a list from the Employment Exchange. In that particular judgment, the facts of which are distinguishable, the Division Bench had observed that when a woman candidate is available, preference should be given to such woman candidate but if there is no woman candidate, a male candidate could be appointed.

18. Unfortunately, the facts being totally different in the present case, the observations therein, would not be applicable to the present case. It is not the case of the petitioner that the respondents have jumped the reserve list and had appointed somebody out of turn.

19. In light of the above, I find no merit in this Writ Petition and the same stands dismissed. No costs. Connected Miscellaneous Petition is also dismissed.

SI
Index: Yes/No
Speaking/Non-speaking order
Neutral citation: Yes/No

13.09.2023



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