



W.A.(MD)No.1237 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.07.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.1237 of 2014

S.Rathinapandian

...Appellant

/Vs./

1.The Secretary, O/o. Secretariat,
Educational Department,
Government of Tamil Nadu,
St.George Fort,
Chepauk, Chennai – 9.

2.The Chairman,
Teachers Recruitment Board,
College Road, Chennai – 6.

3.The Director,
Office of Collegiate Education,
Chennai – 6.

4.K.B.Rangarajan,
Guest Lecturer,
Government Men's Arts College,
Poombukar Kallanai Road,
Kumbakonam,
Thanjavur District.

...Respondents



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PRAYER:- Writ Appeal - filed under Clause XV of Letters Patent Act, to allow the appeal and set aside the order made in W.P.(MD)No.9057 of 2009 dated 07.07.2014 on the file of this Court.

For Appellant : Mr.T.Antony Arul Raj
For Respondents : Mr.V.Om Prakash (R1 & R3)
Government Advocate
Mr.M.Saravanan (R4)
Mr.V.R.Shanmuganathan (R2)

JUDGMENT

(Judgment of the Court was made by **DR.ANITA SUMANTH, J.**)

We have heard the arguments advanced by Mr.T.Antony Arul Raj for the appellant / petitioner, Mr.V.Om Prakash, learned Government Advocate for the respondents 1 and 3, Mr.V.R.Shanmuganathan, learned counsel for the second respondent and Mr.M.Saravanan, learned counsel for the fourth respondent in both the writ petition and the writ appeal.



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2. The writ petitioner is aggrieved by his non-selection to the post of Lecturer - Indian Culture in the Tamil Nadu Collegiate Educational Service to serve in the Government Arts and Science Colleges and Colleges of Education.

3. He challenges an order of appointment issued to R4, who has been holding the post from 2009 onwards, as there is no interim protection that has been given to the appellant / petitioner pending writ appeal.

4. The main ground on which the selection of R4 is assailed is that the interview panel has been biased in their selection. Admittedly, both the petitioner and R4 were awarded 20 marks, after verification of their academic credentials, publications and other certificates. In the interview, R4 was awarded 8 marks as against 5 marks awarded to the petitioner.



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5. According to the writ petitioner, the only reason why R4 has been awarded more marks than he has is that he was employed in the same college where three members of the interview panel were also working. The members constituting the interview panel against whom bias is alleged are Mr.Anbalagan, Mr.Thangaraju and Mr.Ramalingam.

6. R4, in his counter has specifically denied that Mr.Ramalingam was a member of the panel at all. That apart, he, while acceding to the position that he had worked in the same college where Mr.Anbalagan and Mr.Thangaraju were working, would emphasize that his selection has been based entirely on his meritorious performance.

7. The counter filed by the Teachers Recruitment Board (R2) is also categoric on the position that there was no bias or impropriety in the selection of R4 in preference over the petitioner. These averments are duly supported by the counter affidavit of R4.



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8. No rejoinder has been filed by the petitioner to the counter affidavits of R2 and R4. That apart, and importantly, the petitioner has not impleaded the constituents of the interview panel as against whom bias is alleged. Despite the counter affidavit pointing to the non-array of the members of the Interview panel, no steps have been taken in this regard pending writ petition or even writ appeal. There is thus no occasion for the Court to consider the allegation of personal bias in absence of the individuals having been arrayed as parties.

9. The appellant relies on the judgment of the Hon'ble Apex Court in the case of *N.K.Bajpai vs. Union of India and Another* (2012 (4) SCC 653). The question of bias was considered by the Court in the context of whether it would be appropriate for former members of the Customs Excise and Service Tax Appellate Tribunal to appear before that Tribunal upon their demitting office. In that context, at para 48, the Bench states as follows:

“48. Bias must be shown to be present. Probability of bias, possibility of bias and reasonable suspicion that bias might have affected the decision are terms of different connotations. They



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broadly fall under two categories i.e. suspicion of bias and likelihood of bias. Likelihood of bias would be the possibility of bias and bias which can be shown to be present, while suspicion of bias would be the probability or reasonable suspicion of bias. The former lead to vitiation of action, while the latter could hardly be the foundation for further examination of action with reference to the facts and circumstances of a given case. The correct test would be to examine whether there appears to be a real danger of bias or whether there is only a probability or even a preponderance of probability of such bias, in the circumstances of a given case. If it falls in the prior category, the decision would attract judicial chastisement but if it falls in the latter, it would hardly affect the decision, much less adversely.”

10. On a perusal of the above judgment, particularly para 48, we are of the view that the observations and conclusions would support the stand of the respondents rather than that of the appellant. The conclusion is categorical to the effect that bias has to be established beyond all reasonable doubt.

11. The learned Single Judge has considered the position that two members of the Panel were employed in the same Institution as R4 coming to the conclusion that, that by itself, would not lead to bias on their part. We agree.



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12. In the light of the discussion above, we see no cause or justification to intervene in the order of the learned Judge and confirm the same. This Writ Appeal is dismissed. No costs.

[A.S.M.J.] & [R.V.J.]
10.07.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes
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TO:

- 1.The Secretary, O/o. Secretariat,
Educational Department,
Government of Tamil Nadu,
St.George Fort, Chepauk, Chennai – 9.
- 2.The Chairman,
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Dated:
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