



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated :20.04.2023

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.16024 of 2019

and

W.M.P(MD)Nos.12736 & 12738 of 2019

J.Ashok Kumar

... Petitioner

Vs.

- 1.Union of India,
Rep by its Secretary,
Ministry of Personnel, Public Grievances & Pensions,
Department of Personnel & Training,
New Delhi.
- 2.State of Tamil Nadu
Rep by its Principal Secretary,
Department of Welfare of Differently Abled Persons,
Secretariat, Chennai-9.
- 3.State of Tamil Nadu,
Rep by its Principal Secretary,
Department of Higher Education,
Secretariat, Chennai-9.
- 4.The Teacher Recruitment Board,
Rep by its Chairman,
4th Floor, E.V.K.Sampath Maligai,
DPI Compound, College Road,
Chennai-600 006.



5.P.Veerachamy

... Respondents

WEB COPY

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Na.Ka.No.1590/R2/2015 dated 07.05.2019 on the file of the respondent No.4 and quash the same as illegal and consequently for a direction, directing the fourth respondent to appoint the petitioner in the Post of Assistant Professor, Commerce under Schedule Case (Ortho) Category within the time period stipulated by this Court.

For Petitioner : Mr.G.Karthik
M/s.Lajapathiroy Associates

For Respondents : Mr.R.Murugappan
Central Government Senior Counsel
for R1

: Mr.V.Om.Prakash
Government Advocate for R2 & R3

: Mr.V.R.Shanmuganathan for R4

: No appearance for R5

ORDER

This writ petition has been filed against impugned order in Na.Ka.No.1590/R2/2015 dated 07.05.2019 on the file of the respondent No.4.



WEB COPY

2. The petitioner is qualified in commerce and completed M.Phil., SLET and NET and is entitled to be appointed as professor. The petitioner belongs to Schedule Class Community and Physically challenged person. The respondent issued a Notification/Advertisement dated 28.05.2013, the petitioner herein has participated in the recruitment process. The contention of the petitioner is that the post was allotted to Scheduled Caste Category Blind, since there was no available candidate in Scheduled Case Blind Category, the respondent did not fill the said post and the post is still vacant. If no candidates are available under the category of Blind, then the said post ought to be filled up with other category of Scheduled Caste Physically Challenged (Ortho) and other physically challenged persons. However, the respondent did not carry out the said exercise.

3. The respondents had filed counter, wherein it is stated that there are two candidates in Scheduled Caste namely S.Kowsalya who is in serial No.11 and the petitioner in serial No.13. When the candidates are available, if the respondents allot the same to Physically Challenged (Ortho) and other physically challenged persons, the post will be allotted to these two persons as stated supra.



WEB COPY

4. If fact the Teacher Recruitment Board has accepted the claim of the petitioner. However the only requirement is that the State Government ought to issue the Provisional List, which is mandatory according to Section 27 of the Tamil Nadu Government Servants (Conditions of Service) Act 2016.

5. The next contention raised by the petitioner is that one Prabakaran, who belongs to Backward Class Community, did not join the post and subsequently died. In the provisional list of candidates, he is in serial No.18, he was selected under the category of physically challenged. The said post was not shown in the subsequent recruitment also.

6. Therefore, this Court is passing the following orders:

- a. The government is directed to issue provisional list including the said two posts and the post of the deceased Prabhakaran within a period of three weeks.
- b. Thereafter the TRB shall process the same within a period of four 12 weeks from the date of receipt of a copy of this order.



WEB COPY

7. Accordingly, this Writ petition stands disposed of on the above terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

20.04.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
sbn



To

WEB COPY

1. The Secretary,
Union of India,
Ministry of Personnel, Public Grievances & Pensions,
Department of Personnel & Training,
New Delhi.
2. The Principal Secretary,
State of Tamil Nadu
Department of Welfare of Differently Abled Persons,
Secretariat, Chennai-9.
3. The Principal Secretary,
State of Tamil Nadu,
Department of Higher Education,
Secretariat, Chennai-9.
4. The Chairman,
The Teacher Recruitment Board,
4th Floor, E.V.K.Sampath Maligai,
DPI Compound, College Road,
Chennai-600 006.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



S.SRIMATHY, J.

sbn

W.P.(MD).No.16024 of 2019
and
W.M.P(MD).Nos.12736 & 12738 of 2019

20.04.2023