



W.P.(MD) Nos.16088 & 29292 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 01.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.29292 of 2022 and 16088 of 2022
and WMP No.23265 of 2022 and 11631 of 2022

WP(MD) No.29292/2022

M.Uma Rani

... Petitioner

-VS-

1.The Commissioner
Most Backward Classes and De-notified Communities
Chepauk, Chennai 6

2.The Joint Director,
Kallar Reclamation
Madurai, Madurai District.

3.N.SriRenganathan

4.The Member Secretary/Chairman
Teachers Recruitment Board
EVK Sampath Maligai
DPI Compound Road
Chennai 6

... Respondents



W.P.(MD) Nos.16088 & 29292 of 2022

Prayer:- Petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondents 1 and 2 herein to promote the petitioner as PG Assistant (English) in the vacancy at Government Kallar Higher Secondary School, Nallathevanpatti, Usilampatti Taluk, Madurai District as per the panel for promotion for the post of PG Assistant (English) as on 01.03.2022 issued by the 2nd respondent herein with effect from 19.10.2022 the date on which the petitioner is eligible to be promoted as PG Assistant (English) with all other attendant benefits including counting the PG Assistant service for fixation of seniority.

For Petitioner : Mr.T.Ponramkumar

For Respondents : Mr.S.P.Maharajan for R1&R2
Special Government Pleader

Mr.G.Chandrasekar for R3

Mr.VR.Shanmuganathan for R4

WP(MD) No.16088/2022

N.SriRenganathan

... Petitioner

-VS-

1.The Commissioner
Most Backward Classes and De-notified Communities
Chepauk, Chennai 6



W.P.(MD) Nos.16088 & 29292 of 2022

WEB COPY

2.The Joint Director,
Kallar Reclamation
Madurai, Madurai District.

3.M.Uma Rani

... Respondents

Prayer:- Petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 2nd respondent herein in his proceedings in Na.Ka.No.H1/15585/2022 dated 27.06.2022 and to quash the same and to direct the 2nd respondent prepare the seniority list and the promotion panel for the post of Post Graduate (English) by including the petitioner's name by following the Special Rules for the Tamil Nadu Higher Secondary Backward Classes the Special Rules for the Tamil Nadu Higher Secondary backward classes service Rule.

For Petitioner	:	Mr.G.Chandrasekar
For Respondents	:	Mr.S.P.Maharajan for R1&R2 Special Government Pleader Mr.T.Ponramkumar for R3

COMMON ORDER

Since both the writ petitions arising out of the same issue, they were heard together and disposed of by this common order.



W.P.(MD) Nos.16088 & 29292 of 2022

WEB COPY

2. Umarani is the petitioner in W.P.(MD) No.29292/2022 and third respondent in W.P.(MD) No.16088/2022. Likewise, Sri Renganathan is the petitioner in W.P.(MD) No.16088/2022 and third respondent in W.P.(MD) No.29292/2022. In the common order, they were referred to by their names for the sake of convenience.

3.The facts, which are necessary for the disposal of these writ petitions are as follows:

Umarani, petitioner in WP(MD) No.29292/2022 and 3rd respondent in WP(MD) No.16088/2022, passed Secondary Grade Teacher Training in the year 1995 and subsequently passed BA (English) in the year 2000. On 01.06.1999, she was appointed as Secondary Grade Teacher in the Kallar reclamation school. After obtaining prior permission, she has completed MA (English) in the year 2002, M.Phil in the year 2005, B.Ed., in the year 2008. Thus, she was promoted as BT Assistant (English) on 24.06.2009 and is presently working as BT Assistant (English). However, Srirenganathan was directly recruited to the post of BT Assistant (Science) in the year 2008. He has already possessed MA (English) at the time of



appointment as BT Assistant (Science).

3.1. It is the case of Umarani that a seniority panel was prepared in the year 2019 for the post of PG Assistant (English) and Srirenganathan was placed at S.No.4, whereas due to non-availability of posts, he was not promoted as PG Assistant. Subsequently, he has not been considered for the reason that the persons, who have passed cross major, are not entitled to be considered for promotion and accordingly, his name was deleted in the panel. Subsequently, in the year 2022, the name of Umarani was included in the said list and she is placed at S.No.4. Therefore, Srirenganathan sent a representation to include his name in the panel. Aggrieved against the deletion of his name, he filed WP(MD) No.16088/2022 challenging the said deletion and for a direction to include his name. However, Umarani filed WP(MD) No.29292/2022 seeking a direction to the respondents to promote her in the available vacancy.

3.2. The learned counsel for Umarani would submit that as per Article 309 of the Constitution of India and in supersession of the Special



W.P.(MD) Nos.16088 & 29292 of 2022

WEB COPY

Rules for the Tamil Nadu Elementary Educational Subordinate Service in Volume III Section 48A of the Manual and re-issuance of the Special Rules, the candidates must have obtained a bachelor's degree and master's degree in the same subjects or their equivalent for the recruitment. Accordingly, the cross major degree holders are not entitled to be considered for promotion as PG Assistant. He would further submit that by virtue of the interim order passed in the writ petition filed by Srirenganathan, the respondents have not filled up the post of PG Assistant in one of the respondent school and hence, since Umarani is at S.No.4 and she is eligible to be considered for the said post, necessary direction may be issued.

4. However, the learned counsel for Srirenganathan would submit that the respondent Kallar Reclamation Schools are governed by the Special Rules and under the Special Rules for Tamil Nadu Higher Secondary Backward Classes Service Rules and the rule governs the services of its employees. Since there is a special rule governing, there is no general or special rule for the education department applicable to the services of the teachers referred in G.O.Ms.No.12 School Education Department dated



W.P.(MD) Nos.16088 & 29292 of 2022

WEB COPY

5. He would further submit that the impugned order of rejection passed by the official respondents against the special Rules is illegal and against the judgment rendered by this Court in WP(MD) Nos.2396/2012 etc batch, wherein, when a similar issue came up before this Court for the post of Tamil Pandits, based on the date of regularisation, this Court allowed the writ petition and on appeal, the same was confirmed by the Division Bench of this Court in WA(MD) Nos.919 to 922 of 2017 vide judgment dated 07.07.2017 and therefore, Srirenganathan is eligible to be considered and hence, prays for interference.

6. The learned Special Government Pleader, by relying upon the counter affidavit filed in support of the writ petitions, would submit that as per G.O.Ms.No.12 dated 30.01.2020, the candidates must have obtained a Bachelor's degree and Master's degree in the same subjects or their equivalent in respect of which recruitment is made. Since Srirenganathan possessed cross major, he has not been included in the panel. He would



W.P.(MD) Nos.16088 & 29292 of 2022

WEB COPY

further submit that as per the proceedings dated 12.01.2023, promotion can be granted to the teachers having same subjects in bachelor's and master's degree. He would further submit that since the cross-major studied persons were not learnt the root of the subjects, the interest of the students will get affected and therefore, to protect their interest and concerning their future G.O.No.12 has been passed by fixing the qualification. It is further submitted that amendment to the special rules for the Tamil Nadu Higher Secondary Backward Classes service rules in tune with the amended special rules for the Higher Secondary Educational service Rules provide the condition that candidates must have obtained bachelor's degree and master's degree in same subjects and proposals were sent to the Government for amendment and the recruitment is in progress. If such amendment to the Educational Rules will come into effect it will prevail over the Higher Secondary Backward Classes service rules. He would submit that preference shall be given to those who have studied the same subjects in which he/she has obtained Master's degree as main subject under part III in the bachelor's degree as well.



W.P.(MD) Nos.16088 & 29292 of 2022

WEB COPY

7. This Court gave its anxious consideration to the rival submissions and perused the materials available on record.

8. Umarani and Srirenganathan are working as BT Assistants in the schools of the respondent Kallar Reclamation. Umarani possessed the qualification of D.T.Ed., BA (English) and MA (English). Srirenganathan possessed the qualification of B.Sc. (Chemistry) and M.A.(English). There was a vacancy to the post of PG Assistant (English). Both of them were claiming right for promotion to the post of P.G. Assistant (English). Admittedly, Srirenganathan is senior to Umarani. Their educational qualifications and their appointment to their respective post are not in dispute. It is an admitted fact that Srirenganathan possessed cross major and he has not completed the same subjects in Undergraduate and Postgraduate. However, Umarani has possessed the qualification of BA and MA in the same subjects, viz., English. Since Srirenganathan possessed cross major, his candidature was rejected vide impugned order dated 27.06.2022. Srirenganathan is claiming that the G.O. referred in the



W.P.(MD) Nos.16088 & 29292 of 2022

impugned order is not applicable to him, since both Umarani and Srirenganathan are governed by the Special Rules and the general Rules cannot override the Special Rules. On the sole ground, the impugned order is challenged.

9. For better appreciation, G.O.Ms.No.12, which provides for appointment, is extracted hereunder:

“2. Appointment.- Appointment to the various classes and categories shall be made, as follows:-

Class	Category	Method of Appointment
(1)	(2)	(3)
II	1. Graduate Teacher (Tamil)	(i) By promotion from eligible person in category 1 of class III of the service. If no eligible person is available for promotion in category 1 of class III of the service, the vacancy shall be filled up by promotion from eligible person in category 2 of class III. (or) (ii) By transfer of qualified personnel from any other unit. (or) (iii) If no qualified and suitable candidate is available for appointment by any of the methods specified in item (i) and (ii) above, then by direct recruitment.
	2. Graduate Teacher (other than Tamil)	(i) By promotion from eligible person in category 1 of class III of the service. If no eligible person is available for promotion from category 1 of class III of the service, the vacancy shall be filled up by promotion from eligible person in category 2 of



WEB COPY



W.P.(MD) Nos.16088 & 29292 of 2022

class III.

(or)

(ii) By transfer of qualified personnel from any other unit.

(or)

(iii) If no qualified and suitable candidate is available for appointment by any of the methods specified in item (i) and (ii) above, then by direct recruitment.

3. Graduate Teacher (Subjects)

(i) By promotion from eligible person in category 1 of class III of the service. If no eligible person is available for promotion from category 1 of class III of the service, the vacancy shall be filled by promotion from eligible person in category 2 of class III.

(or)

(ii) By transfer of qualified personnel from any other unit.

(or)

(iii) If no qualified and suitable candidate is available for appointment by any of the methods specified in item (i) and (ii) above, then by direct recruitment.

III 1. Headmaster/ Headmistress of Primary Schools By promotion from category 2 of class III
2. Secondary Grade Teacher. By direct recruitment;
IV Physical Education Teacher By direct recruitment
V Pre-Vocational Instructor By direct recruitment
3.

10. For better appreciation, G.O.Ms.No.14, which prescribes for qualification for the post of PG Assistant (English) is extracted as under:

(2) Post Graduate Assistant in Languages

(i) Direct recruitment;

or

(ii) Recruitment by transfer from the categories of Deputy Inspector of Schools in Category 1 in Class I, Graduate Teacher (Tamil) in Class II, Graduate Teacher (English) in Class III and Graduate Teacher (languages other than Tamil and English) in class IV of the Tamil Nadu School Educational Subordinate Service;

(iii) (a) Recruitment by transfer from the post of



WEB COPY



W.P.(MD) Nos.16088 & 29292 of 2022

Superintendent in the Tamil Nadu Ministerial Service in School Education Department;

(b) If no qualified and suitable candidates are available for appointment by the method (a) above, recruitment by transfer from the posts of Assistant/ Steno-Typist in the Tamil Nadu Ministerial Service in School Education Department;

(c) If no qualified and suitable candidates are available for appointment by the method (a) and (b) above, recruitment by transfer from the posts of Junior Assistant/ Typist in the Tamil Nadu Ministerial Service in School Education

Department;

11. Rule 6(b) (i) of the special rules (Annexure) in respect of Kallar Reclamation is as follows:



W.P.(MD) Nos.16088 & 29292 of 2022

Class II Teachers Academic Subjects	in	Direct Recruitment and recruitment by transfer	i) A Bachelor's degree of a University in the State in the languages in respect of which recruitment is made or a degree of equivalent standard. ... or a Master's degree of equivalent standard in the subject in respect of which recruitment is made; provided that other things being equal, preference shall be given to those who have studied in same subject in which he/she has obtained that Post Graduate Degree as main subject under Part -III in the Bachelor's degree level; i)A bachelor's degree of a university in the State in the languages in respect of which recruitment is made or a degree of equivalent standard. b.A master's degree of a University in the State in the language in respect of which recruitment is made or a master's degree of equivalent standard, and ... ii) B. A Master's degree of a university in the State in the language in respect of which recruitment is made or a master's degree of equivalent standard, and ... Provided further that other things being equal, preference shall be given to those who possess the qualification specified in item I above.
b) Teachers in Languages		Direct Recruitment and recruitment by transfer	

12. On a combined reading of the above said clause and G.O., with regard to the promotion to the post of PG Assistant in Language level and PG Assistant in Academics are one and the same and there is no much difference and a bachelor's degree of a University in the State in the languages in respect of which recruitment is made or a degree of equivalent standard and a master's degree of a university in the State in the language in



W.P.(MD) Nos.16088 & 29292 of 2022

respect of which recruitment is made or a master's degree of equivalent standard. If the qualified persons are not available in the same subjects, cross major is prescribed in the said rules and the same was reiterated in the PG Assistant in G.O.Ms.No.14, whereas, the general rules make it clear that the bachelor and master's degree have been obtained from the recognized University and the courses have been duly permitted by the competent authority in this regard.

13. In the present case, Srirenganathan has completed B.Sc., Chemistry and M.A. (English) and admittedly, he has completed cross majors and hence, his candidature was rejected on the ground that he is not studied same subjects in UG as well as PG, whereas Umarani acquired BA and MA both in English and there is no disqualification. However, the seniority is also to be the criteria, which has also to be taken to conclude the promotion. It is the case of Srirenganathan that if seniority list will be taken, he would be eligible to be promoted *de-hors* the cross major. If promotion is purely based on merit and ability, the seniority should be considered. However, in the present case, as per the Special Rules, he is not



W.P.(MD) Nos.16088 & 29292 of 2022

WEB COPY

entitled for the cross major degree. However, if there is no person available in the school, he is entitled to be considered for promotion and when there is suitable person is available in the school, the candidature should be considered.

14. In view of the above, the impugned rejection order cannot be interfered with. Accordingly, WP(MD) No.16088/2022 stands dismissed.

15. Insofar as Umarani is concerned, the official respondents are directed to assess the suitability of the candidature in the said school and give appropriate promotion to the eligible candidate in the manner known to law. Accordingly, W.P.(MD) No.29292/2022 is disposed of. No costs. Consequently connected Miscellaneous Petitions are closed.

01.02.2023

NCC : Yes/No
Index : Yes/No

RR

To



W.P.(MD) Nos.16088 & 29292 of 2022

WEB COPY

- 1.The Commissioner
Most Backward Classes and De-notified Communities
Chepauk, Chennai 6
- 2.The Joint Director,
Kallar Reclamation
Madurai, Madurai District.
- 3.The Member Secretary/Chairman
Teachers Recruitment Board
EVK Sampath Maligai
DPI Compound Road
Chennai 6



WEB COPY



W.P.(MD) Nos.16088 & 29292 of 2022

M.DHANDAPANI, J.

RR

W.P.(MD) No.16088 and 29292 of 2022

01.02.2023