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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.1967 of 2016
and
W.M.P(MD)No.1728 of 2016

S.Umadevi

...Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
School Education Department,
Saint George Fort,
Secretariat, Chennai.
2. The Commissioner and Director,
of Most Backward and De-notified Communities,
Welfare Department,
Chennai.
3. The Teachers Recruitment Board,
Represented by its Member Secretary,
4th Floor, DPI Campus,
College Road, Chennai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a *Writ of Mandamus* or any other appropriate Writ or order or



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direction in the nature of writ to direct the 3rd respondent to select the petitioner for appointment to the post of P.G.Assistant (Commerce) under B.C. Category and consequently to direct the 2nd respondent to appoint the petitioner as P.G. Assistant (Commerce) in the vacancy caused due to non joining of Parthiban within the period that may be stipulated by this Hon'ble Court.

For Petitioner : Mr.H.Mohammed Imran, for
M/s.Ajmal Associates

For R-1 & R-2 : Mr.V.Om Prakash
Government Advocate

For R-3 : Mr.VR.Shanmuganathan,
Standing Counsel

ORDER

This writ petition is filed for *Writ of Mandamus* to direct the respondents to forward list of selected candidates as per the selection conducted for the post of Post Graduate Assistant in Commerce for the year 2012-2013 and consequentially direct the 2nd respondent to appoint the petitioner in the said post.

2. Heard Mr.H.Mohammed Imran, for M/s.Ajmal Associates, learned counsel appearing for the petitioner and Mr.V.Om Prakash, learned Government



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Advocate appearing for 1st and 2nd respondents and Mr.VR.Shanmuganathan, learned Standing Counsel appearing for 3rd respondent. Perused the material documents available on record.

3. Pending writ petition, the petitioner had filed a petition to amend the prayer and the same was allowed on 25.02.2019. As per the amended prayer, the petitioner has sought for a ***Writ of Mandamus*** to direct the 3rd respondent to select the petitioner for appointment to the post of PG Assistant [Commerce] under BC category and consequentially direct the 2nd respondent to appoint the petitioner as P.G. Assistant [Commerce] in the vacancy caused due to non-joining of the selected candidate, namely Parthiban.

4. It is an admitted fact by both the petitioner as well as the respondents, the petitioner was selected and her name was found in serial No.1 in the reserved list. It is also an admitted fact that the said Parthiban was selected, but he did not join in the said post.



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5. The only contention that was raised by the respondents is that the said Parthiban did not join in the said post was not brought to the knowledge of the TRB within the stipulated time. Moreover, it is a duty of the appointing authority to communicate to the 3rd respondent about the non-joining of the selected candidate, so that the 3rd respondent could recommend the person from the reserved list.

6. The selection was processed in the year 2013-2014 and the selection list was published on 25.08.2014. The rule pertaining to reserved list, states that the reserved list would be in existence for a period of one year or until the next selection process notification is issued. In the present case, the next process of selection notification was issued on 07.11.2014. Therefore, the reserved list was in existence for a period from 25.08.2014 to 07.11.2014. Before issuing a fresh notification, the 3rd respondent ought to have informed the 2nd respondent about the availability of reserved list. The 2nd respondent ought to have informed the 3rd respondent about the non-joining of the said Parthiban. Both the 2nd and 3rd respondents did not communicate among themselves the



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information, thereby the petitioner has lost her valuable right of appointment from the reserved list.

7. Therefore, this Court is of the considered opinion that the petitioner is entitled to the relief as prayed in the writ petition. The 3rd respondent is directed to forward the petitioner's name as selected to the 2nd respondent, within a period of one week, from the date of receipt of a copy of the order. The 2nd respondent, thereafter, shall issue an appointment order to the petitioner, within a period of two weeks, thereafter.

8. Before parting with this order, this Court is of the considered opinion that, this is repeatedly happening between the recruiting agency and the employer. Therefore, this Court is directing the recruiting agency, namely, Teachers Recruitment Board, Tamil Nadu Public Service Communication or any other recruiting agency, before issuing any notification for next recruitment, the recruiting agencies shall communicate to the employer about the existence of the reserved list. In turn the employer shall inform the fact of non-joining of the selected candidates to the recruiting agency. The employer and the recruiting



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agencies should strictly follow the aforesaid direction, so that the valuable right of the selected candidates is protected.

9. With these observations and directions, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No

12.06.2023

Internet : Yes

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Note to Office : Issue a copy of order on 14.06.2023



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To

1. The Principal Secretary to Government,
State of Tamil Nadu,
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S.SRIMATHY, J

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**Order made in
W.P.(MD)No. 1967 of 2016**

12.06.2023