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W.P.No.29814 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2024

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.29814 of 2012

and

W.M.P.Nos.1 and 2 of 2012

P.Abbas Kiyasudeen

... Petitioner

Vs.

1. The Chairman,
Teachers Recruitment Board,
College Road, Chennai – 6.
2. The Director of Technical Education,
Guindy, Chennai -2.
3. I.Rahamathullah

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of writ of certiorarified mandamus, calling for the records in the impugned tentative provisional list of candidates selected for the appointment for the recruitment of Assistant Professor in Govt. Engineering College 2010-2011 dated nil published by the first respondent and quash the same as being illegal, arbitrary, unconstitutional in so far as the third respondent concerned in Sl.No.22 of the above list and consequently direct the first respondent to call for the petitioner for certificate verification for the post of Asst.Professor (Engineering /non- Engineering) and publish the result for the same.

For Petitioner : Mr.T.Sundaravadanam



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W.P.No.29814 of 2012

For R1	:	Mr.R.Neelakandan Additional Advocate General assisted by Mr.C.Karthiravan Standing Counsel
For R2	:	Mr.C.Jayaprakash Government Advocate
For R3	:	No appearance

ORDER

This writ petition has been filed seeking for a direction to quash the tentative provisional list of candidates (Sl.No.22) selected for appointment to the post of Assistant Professor in Govt. Engineering College 2010-2011 and consequently direct the first respondent to call for the petitioner for certificate verification for the post of Assistant Professor (Engineering /non-Engineering) and publish the result for the same.

2. The facts in brief as per the affidavit enclosed in this writ petition are as follows:

2.1. The petitioner after completing his post graduation in the year June 2009 and joined Mohamed Sathak Engineering College, Kilakarai as a Lecturer on 06.07.2009 and was subsequently promoted as Assistant



Professor on 07.07.2010. While so, the first respondent had conducted examination for the post of Assistant Professor (Engineering/Non Engineering) to fill up vacancies in Government Engineering colleges on 22.04.2012 *vide* notification/advertisement No.01 of 2012 dated 11.02.2012.

2.2. The petitioner also participated in the written examination and secured 93 marks. Candidates were called for certificate verification in the ratio of 1:2. As per clause 16 of the prospectus issued by the Board, for direct recruitment of candidates, those who have secured the same lowest cut off marks for a particular communal turn and if the lowest mark is secured more than one candidates, then all such candidates ought to have been called for certificate verification but that was not done by the first respondent.

2.3. For BC (M) communal category there was one post vacant and for the said one post two candidates, *viz.*, S.Samsudeen and I.Rahamathullal who secured 115 and 93 marks respectively were only called for certificate verification. The third respondent and the petitioner had secured the same marks, *viz.*, 93 marks, whereas the third respondent was only called for certificate verification and appointed to the above said post, who lacks



experience. If the petitioner was called for interview, he would have secured 95 marks (93 marks in written examination + 2 marks for experience = 95 marks in toto) which will be more than the marks obtained by the third respondent. The respondents have published the impugned tentative provisional list of candidates selected for the post of Assistant Professor in Government Engineering college 2010-2011 in their official website dated nil. The petitioner submitted his representation dated 12.07.2012 to call him for certificate verification but there was no response. Aggrieved by the same, this present writ petition.

3. The respondents have filed counter affidavit in the year 2017 and the relevant portion of which is extracted hereunder:

“One post of Assistant Professor in Mechanical Engineering was earmarked for BC Muslim communal turn and two candidates namely S.Samsudden with a score of 115 marks and Rahamathullah. I (the third respondent herein) whose date of birth is 24.07.1977 with a score of 93 marks were called for certificate verification in the BC Muslim communal turn. The petitioner could not be included in the provisional selection list for certificate verification in spite of his having secured the lowest cut-off marks as that of the third respondent herein because the petitioner is junior to the third respondent in age. The date of birth of the petitioner is 11.05.1985 whereas the date of birth of the third respondent is 24.07.1997 and as a result the senior being the third respondent was called for certificate



verification as per the decision of the respondent Board.”

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4. Heard both sides and perused the materials available on record.

5. The learned Additional Advocate General appearing for the respondents submitted that there is only one post vacant for the post of Assistant Professor (Mechanical Engineering), for which candidates were called for certificate verification in the ration of 1:2.

6. The learned Additional Advocate General submitted written instructions pursuant to the directions issued by this Court to give clarification as to:

(i) on what basis was the third respondent selected for the one post of Assistant Professor in Mechanical Engineering ear marked for the BC Muslim Communal turn?

It is stated that the **candidate S.Samsudeen who had secured 115**



W.P.No.29814 of 2012

marks did not possess eligible qualification. Hence, Rahamathulla who had secured 93 marks is the next eligible candidate. Therefore, he was selected under BC (M) category for the subject Mechanical Engineering.

(emphasis supplied)

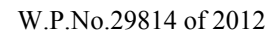
(ii) Why the petitioner was not called when all candidates having similar marks ought to have been called for certificate verification as per the notification?

(iii) What rules stipulate that persons who are senior on the basis of date of birth only have to be called?

As per the notification, the Board has clearly prescribed that when there are more than one candidate who has secured equal marks in the same communal turn, then the date of birth will alone be considered and the candidate who is senior alone shall be called for certificate verification in the ration of 1:2.

(emphasis supplied)

7. In this case, Rahamathullah, the third respondent, who was



8. The learned Additional Advocate General further submitted that there will be a recruitment shortly for 4000 (approximate) vacancies for which the Government has already issued a Government Order, notification of which will be issued shortly and the petitioner can participate in the up coming recruitment. The upper age limit for the upcoming notification is prescribed as 40 years and the petitioner is aged about 39 years as on date and he was 29 years at the time of filing of this writ petition and can participate in the said future recruitment.

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Page No.7 of 8



W.P.No.29814 of 2012

23.02.2024

Index : Yes/No
Internet : Yes/No
Citation : Yes/No
Speaking Order : Yes/No

To:

1. The Chairman,
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College Road, Chennai – 6.
2. The Director of Technical Education,
Guindy, Chennai -2.

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