



W.P. No.30315 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.30315 of 2012

and

M.P.Nos.1 & 2 of 2012

D.Priya

... Petitioner

Vs.

1.The Secretary,
Teachers Recruitment Board
E.V.K. Sampath Maligai
College Road,
Chennai – 600 006.

2.The Chairman
Teachers Recruitment Board
EVK Sampath Maligai
College Road, Chennai – 600 006.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to issue an appointment order by awarding additional marks for the above mentioned questions as the petitioner qualified overall total of 107 Marks as against the cut off 106 Marks as fixed by the respondents and consequently create a post



W.P. No.30315 of 2012

of Post Graduate Assistants under the Tamil nadu Higher Secondary Education Service.

(PRAYER AMENDED AS PER ORDER DATED 27.11.2023 IN WMP.NO.31889/2023 IN WP.NO.30315/2012)

For Petitioner : Mr.S.Mahaveer Shivaji
For Respondents : Mr.R.Neelakandan
Additional Advocate General
assisted by Mr.C.Kathiravan

ORDER

This writ petition has been filed challenging the action of the respondents in not awarding marks for certain questions and also questioning the key answers provided in the answer key declared by the respondent Board.

2. The facts of the case are that the petitioner participated in the recruitment process pursuant to the notification dated 28.02.2012 issued by the respondent Board vide Advertisement No.03/2012 for direct recruitment to the vacancies of Post Graduate Assistant in Commerce under the Tamil Nadu Higher Secondary Education Services for the year 2011-12. In all, 2895 vacancies were notified and written examination was held on



27.05.2012. The petitioner herein participated in the recruitment process under General turn category with Roll No.12PG11291053 and secured 102 marks in terms of the assessment made by the respondent Board and subsequently, the petitioner filed the present writ petition disputing the marks awarded in her favour and also claiming that she is entitled for 107 marks but not 102 marks and also challenged the key answers provided by the respondent Board in respect of some of the questions.

3. When the matter was earlier heard by Co-ordinate bench of this Court, the learned Additional Advocate General placed before this Court the written instruction received from the respondent Board through R.C.No.2639/L-S4/2022, dated 21.03.2024, whereby it was informed to this Court that the petitioner herein is entitled to secure 104 marks in terms of the order passed by this Court in W.P.No.21170 of 2012 and batch, dated 01.10.2012. It is also further brought to the notice of this Court that the cut-off marks fixed for General turn category is 104 and the petitioner also secured 104 marks.



4. The learned counsel for the petitioner also submitted that though the claim was made for 107 marks, the petitioner is satisfied with 104 marks which is now stated to have been secured by the petitioner.

5. Further it is submitted by the learned Additional Advocate General that all of the vacancies that were notified under the notification in question were already filled in and there are no vacancies available.

6. This Court has carefully considered the matter and the submissions made on either side.

7. Once it is concluded that the petitioner is entitled for awarding of 104 marks, which is admittedly the cut-off mark fixed by the respondent Board in respect of General turn category, the petitioner is entitled for consideration of her case in terms of her merit for being appointed to the post of Post Graduate Assistant (Commerce) in response to the notification dated 28.02.2012.



8. In the light of the admitted fact situation, the writ petition is liable to be allowed and accordingly, the same is allowed with the following directions:

- i. The respondent Board shall revise the merit list that was prepared for the Post Graduate Assistant Commerce pursuant to the notification dated 28.02.2012 and place the petitioner at the appropriate place.
- ii. After revision of the merit list, in case, if it is found that any of the persons who secured less merit than the petitioner was appointed as Post Graduate Assistant Commerce, the petitioner shall also be extended the same benefit of appointment, from the date on which the said junior was appointed, in any of the vacancies notified under notification in question or in the absence of any such vacancies, the respondents are directed to create supernumerary vacancies to accommodate the petitioner.
- iii. The petitioner is also entitled for all consequential service benefits on par with her juniors in the revised merit list with all monetary benefits from the date of issuance of the appointment order.



W.P. No.30315 of 2012

The entire exercise as directed above shall be completed by the respondents within a period of six (6) weeks from the date of receipt of a copy of this order.

12.08.2024

Index : Yes/No
Speaking Order : Yes/No
dpa

To:

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Chennai – 600 006.
- 2.The Chairman
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