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W.A.Nos.759 and 761 of
and C.M.P.Nos.5050, 5054, 5049 and 5059 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2024

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.A.Nos.759 and 761 of 2024
and C.M.P.Nos.5050, 5054, 5049 and 5059 of 2024

WA No.759 of 2024

M.R.Preethi Appellant

Vs.

1. The Teachers Recruitment Board,
Rep. By its Chairman,
4th Floor, EVK Sampath Maaligai,
DPI Campus, College Road,
Chennai 600 006.

2. K.Arthi

3. The Director of Technical Education
Government of Tamil Nadu,
Chennai

[R3 Suo-moto impleaded by order dated
15.09.2022]

.... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent to pass an order setting aside the order passed by the learned Judge in W.P.No.24928 of 2022 dated 06.02.2024 .

For Appellant : Mr.R.Singaravelan
Senior Counsel for
Mr.M.Muruganantham



W.A.Nos.759 and 761 of
and C.M.P.Nos.5050, 5054, 5049 and 5059 of 2....

For Respondent : Mr.R.Neelakandan
Additional Advocate General
Assisted by
Mr.C.Kathiravan
Special Government Pleader for R1
Mr.G.Karthikeyan for R2
Mrs.S.Anitha,
Special Government Pleader
for R3

WA No.761 of 2024

M.R.Preethi Appellant

Vs.

1. The State of Tamil Nadu,
Rep. By its Secretary,
Director of Technical Education,
Secretariat, Chennai.
2. The Chairman
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Campus, College Road,
Chennai 600 006.
3. The Member Secretary,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Campus, College Road,
Chennai 600 006.
4. The Director of Technical Education
O/o.The Director of Technical Education,
Lady Willington College Campus,
Kamarajar Salai,
Chennai.

5. K.Arthi 5th Respondent



W.A.Nos.759 and 761 of
and C.M.P.Nos.5050, 5054, 5049 and 5059 of 2022.

Prayer : Writ Appeal under Clause 15 of the Letters Patent to pass an order setting aside the order passed by the learned Judge in W.P.No.23921 of 2022 dated 06.02.2024 .

For Appellant : Mr.R.Singaravelan
Senior Counsel for
Mr.M.Muruganantham

For Respondent : Mr.D.Ravi Chandar
Special Government Pleader for R1 & R4
Mr.R.Neelakandan
Additional Advocate General
Assisted by
Mr.C.Kathiravan
Special Government Pleader for R2 and R3
Mr.G.Karthikeyan
Special Government Pleader
for M/s.A.Jagadeeswari for R5

COMMON JUDGEMENT

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

Since the issues raised in both the Writ Appeals are one and the same, both the writ appeals were heard together and disposed of through this common order.

2. Writ Appeal No.759 of 2024 arises out of the order passed by the Writ Court dated 06.02.2024 made in WP No.24928 of 2022.



3. Writ Appeal No.761 of 2024 arises out of the order passed by the Writ Court dated 06.02.2024 made in WP No.23921 of 2022.

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4. The 1st respondent i.e., the Teachers Recruitment Board had issued Notification No.14 of 2019 dated 27.11.2019 inviting applications to fill up the post of lecturers in Government Polytechnics to the extent of 1060 vacancies in the year 2017-2018. The required Educational qualification for the said posts is B.E Degree qualification in the concerned branch. As per the notification, weightage marks also would be awarded based on the experience certificate produced by the candidate stating that if the candidate is a full time teacher before the date of notification for two years or teaching experience of four years as a part time teacher, two marks would be awarded as additional mark for teaching experience.

5. For having the higher qualification also additional marks would be given where if a candidate possess M.E or M.Tech qualification, an additional three marks would be awarded. Like that if a candidate possessing Ph.D Degree, five additional marks would be provided.

6. Insofar as these two candidates are concerned, viz., the Appellant Ms.M.R.Preethi and the respondent Ms.K.Arthi, they belong to B.C. Community and therefore, they can compete for B.C General and B.C Women category also.



For each of that category, posts have been reserved in each of the discipline including the discipline of Electrical and Electronic Engineering.

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7. After the competitive examination, both the candidates secured marks and they also secured two marks each more for having the teaching experience of two years. After giving such additional two marks to both the candidates, the total marks secured by both of them is 134 each i.e., both the candidates secured the same mark.

8. With the same mark of 134, since the candidates can be considered within the zone of selection, however, 134 being the cut off mark, one alone can be brought under the zone of consideration and therefore, there must be an elimination process which according to the 1st respondent /Recruitment Board as per the notification, would be undertaken based on their seniority in age of a candidate.

9. Accordingly, the present appellant viz., M.R.Preethi since was born on 12.08.1994 and the 2nd respondent K.Arthi, was born on 20.09.1989, the 2nd respondent is senior to the appellant /Writ petitioner and therefore, the Recruitment Board wants to select the 2nd respondent.

10. In fact, the writ petition in WP No.23921 of 2022 filed by the said



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K.Arthi was also disposed by an order dated 06.02.2024 which is the subject matter of challenge in W.A.No.761 of 2024, where the learned Single Judge recorded that during the pendency of the writ petition selection has been given to the writ petitioner K.Arthi in W.P. No.23921 of 2022. Therefore, recording the same, the writ petition was closed by the learned Single Judge. However, that order has also been challenged by the present appellant i.e., Ms.M.R.Preethi in W.A.No.761 of 2024.

11. Notice had been issued by the Co-ordinate bench pursuant to which, the learned counsel for 2nd respondent, the learned Additional Advocate General appearing for the 1st respondent /Teachers Recruitment Board and Mrs.S.Anitha, learned Special Government Pleader for Directorate of Technical Education appeared before this Court.

12. The learned Special Government Pleader appearing for the 3rd respondent pursuant to the direction by this Court on an earlier occasion has produced the written instructions given by the Commissioner of Technical Education, Directorate of Technical Education, Chennai, dated 09.07.2024, where inter alia the 3rd respondent has stated the following :-



4.	<i>Number of posts withheld by Teachers Recruitment Board in Electrical and Electronics Engineering Branch</i>	5
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13. Relying upon this written instruction, the learned Government Pleader would contend that the number of vacancies available in the branch called Electrical and Electronic Engineering under BC category are five. Thereafter, it is also submitted by the learned Special Government Pleader on instructions that one of the candidate selected but did not join, therefore, that has also become a vacancy. Hence, the vacancies now under the said subject of Electrical and Electronics engineering for the B.C category would go to six.

14. Out of the five vacancies, two number of vacancies earmarked for B.C community i.e both for general as well as women. As in both categories, these two candidates can compete as they are the only candidates and both the candidates since have secured the same mark i.e., 134 by which both of them can be brought under the zone of selection, it is for the Court to take a decision as to whether selection could be made in respect of both the candidates as they secured the same marks and they have been placed merit wise equally.

15. Insofar as this submission made by the learned Special Government



Pleader appearing for the 3rd respondent, the learned counsel for the appellant as well as the learned counsel appearing for 2nd respondent in WA No.759 of 2024, have no objection as if both the candidates are considered to bring under the zone of selection and such a selection would be strictly in consonance with the merits of the particular category of candidates for the selection and appointment to the post of lecturer in the subject Electrical and Electronics Engineering.

16. We have considered all these submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

17. Insofar as the marks secured by them is concerned, as they have secured same marks i.e., 134 and both of them also secured two marks as additional marks which includes the 134 total marks. Insofar as the merit is concerned, both are equally placed. However, only with regard to want of vacancy, the candidates are short-listed further. Therefore, instead of taking both of them in the initial selection for appointment, they wanted to select only one candidate for which by the short-listing process of taking the seniority age wise one candidate i.e., the 2nd respondent K.Arthi was selected and given the appointment, which has been recorded by the learned Single Judge in the said writ petition, which is the subject matter in W.A.No.761 of 2024.



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18. However now it is brought to our notice that there are vacancies in the same subject totally six vacancies. Out of which, two B.C vacancies can be utilised for filling up these two candidates. As one candidate viz., the 2nd respondent since already been selected, the present appellant also can be selected and given appointment as she also secured the same mark and equally placed on merits.

19. Therefore, in that view of the matter, we do feel that such an arrangement could be made under which since both the candidates viz., the appellant and the 2nd respondent secured equal mark i.e., 134 marks which already comes within the zone of selection, both the candidates can be selected and fit in in the vacancies earmarked for B.C Community, out of six vacancies, which are actually available as stated by the learned Special Government Pleader quoting the written instructions given by the 3rd respondent.

20. In this context, the said K.Aarthi even though has already been selected and appointed, she could not join because of the pendency of these Writ Appeals and the interim orders passed by this Court. Therefore, the following orders are passed in these Writ Appeals :-

(a) There shall be a direction to the 1st respondent to give selection to the appellant viz., M.R.Preethi in the concerned category either B.C. General or B.C. Women depending upon the vacancy for the subject Electrical and



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Electronic Engineering as Lecturer and the same shall be communicated to the 3rd respondent immediately.

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(b) Insofar as the 2nd respondent K.Aarthi is concerned, since already the selection has been made and communicated already to the 3rd respondent, based on such communication, the 3rd respondent shall issue appointment order to the 2nd respondent also. The 2nd respondent who on receipt of the same can join immediately. Insofar as the appellant is concerned, the selection communication shall be issued by the 1st respondent to the 3rd respondent within a period of one week from the date of receipt of a copy of this order. Immediately the 3rd respondent on receipt of the said communication from the 1st respondent shall issue posting orders within a period of three days. On receipt of such posting orders, the appellant can join immediately. Insofar as the seniority of these two candidates are concerned, Rules which is in vogue shall be followed.

19. With all these directions, these Writ Appeals are disposed of. No costs. Consequently, all connected miscellaneous petitions are closed.

(R.S.K.,J.) (C.S.N.,J.)
03.12.2024

Indes : Yes/No
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R.SURESH KUMAR, J.
and
C.SARAVANAN, J.

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