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W.A.No.1758 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2024

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.A.No.1758 of 2021 and

CMP No.11007 of 2021

1. The Secretary, School Education Department,
Chennai.

2. The Director, Teachers Recruitment Board,
DPI Campus, College Road, Chennai.

... Appellants

Vs.

K. Shanmugam

... Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed by this Court dated 28.01.2020 in W.P.No.34916/2019 and allow this writ appeal.

For Appellants

: Mr.U.M.Rvichandran,

Spl.Govt.Pleader for first appellant

Mr.R.Neelakandan, Addl.Adv.General

Assisted by Mr.K.Sathishkumar

for second appellant

For Respondent

: Mr.M.Subash



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JUDGMENT

WEB COPY (Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This Intra-Court Appeal has been filed to set aside the order passed by the learned Single Judge dated 28.01.2020 in W.P.No.34916/2019, in and by which, " *the second appellant herein was directed to consider the respondent for appointment to the post of Graduate Assistant (Commerce), strictly in accordance with the notification and proceed further with the selection; the seat of Graduate Assistant (Commerce) strictly in accordance with the notification and proceed further with the selection; this seat cannot be carried forward and it has to be filled up in the present recruitment itself; to that extent, Sl.No.99 of the provisional selection list dated 20.11.2019 was quashed; and the second respondent was directed to proceed further with the selection in line with the observations made by this court in the writ petition.*"

2. The brief facts leading to the filing of the writ appeal is as follows:

The second appellant/Teachers Recruitment Board had issued a



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notification No.10/2019, dated 12.06.2019 calling applications from the eligible candidates to fill up the post of PG Assistants/physical Education.

The respondent herein had applied for the said post of P.G.Assistant (Commerce) under SCA (Arunthathiyar) Category. As per the notification, among two seats under communal turn for the post of P.G.Assistant (Commerce), one is reserved for SCA(General) and the remaining is reserved for SCA (Tamil Medium). According to the respondent, he had written the examination and secured 73 marks and he had participated in the certificate verification also. The selection list of candidates was published on 20.11.019, wherein, the respondent was not selected, but one Saravanan, who scored 71 marks, was selected under the turn of SCA T (Tamil Medium). The respondent came to know that the remaining one post reserved for SCA has not been fulfilled. According to the respondent, if he was considered under the category SC A (Arunthathiyar), he could have been appointed to the said post, however, the second appellant failed to consider his candidature, as per the notification No.10/2019 dated 12.06.2019. Therefore, the respondent had given representation to consider his candidature under SCA category, but it was not considered. Hence, the



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respondent filed the writ petition to include his name in the provisional selection list dated 20.11.2019 for the commerce subject under SCA category and subsequently, select him for the post of PG Assistant, by considering his 73 marks, in pursuant to his representation dated 22.11.2019. The above writ petition was disposed of, as stated supra and challenging the same, the present intra court appeal has been filed.

3. The learned Additional Advocate General appearing for the Teachers Recruitment Board submitted that, the Board has notified two seats reserved for SCA under current vacancies, among which, one seat was notified under SCA (Tamil Medium) and the another was reserved for the person with disability, which comes under SCA Hardness of Hearing (HH). He further submitted that the respondent had applied to the post of PG Assistant (Commerce) and he belongs to SCA community. Hence he might be considered for selection under GT, SC(G), SC Communal turn, and SCA General, but, he cannot be considered under SCA (Tamil Medium) or SCA (HH), as it was specifically notified under vertical reservation for the candidates, who applied to the post of PG Assistant in commerce under the



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PWD category. The learned Additional Advocate General further submitted that one candidate was provisionally selected under SCA Tamil Medium and another vacancy was not filled up, since there was no candidate available to fill up that PWD vacancy, which was specifically notified for SCA /Hardness of Hearing (HH) candidate. However, without properly appreciated the reservation policy followed by the Board, and the Writ Court has misguided that the notification for the post of PG Assistant in Commerce subject has no reservation under SCA/HH (PWD) category, instead the Board has notified it under SCA (General), which is not true. It is the contention of the learned Additional Advocate General that, the procedure for selection, as per the provisions and as cited in the decision of this Court in ***K.R.Shanthi Vs. The Secretary to Government, dated 01.10.2012***, is strictly followed by the Board in filling up the reservations. He further submitted that, even though there is no mention about the rotation in the notification, the Board is following the rules of vertical reservation, considering the roster turn, during the time of selection. Without considering the above aspects in proper perspective, the learned Single Judge has passed the impugned order and hence, the same is liable to



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be set aside.

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4. Heard the learned counsel for the appellants and the learned counsel for the respondent and we have perused the materials on record.

5. The primordial contention of the learned Additional Advocate General appearing for the Board is that, by following the decision of this Court in ***K.R.Shanthi Vs. The Secretary to Government, dated 01.10.2012*** ***10.01.2020***, out of two vacancies for the post of P.G.Assistant (Commerce), one was allotted to SCA (T) and another one was allotted to SCA/HH. Therefore, according to the learned Additional Advocate General, one post under SCA(T) was already filled up and the respondent, who comes under SCA (G) cannot be considered for the remaining vacancy, which is reserved for SCA/HH.

6. We have gone through the notification No.10/2019, dated 12.06.2019, inviting the applications, for the direct recruitment for the post of Post Graduate Assistants/Physical Education Directors Grade-I in School



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Education and other Departments for the year 2018-2019. In the above

notification, *current vacancies, under communal turn, for Commerce*

subject was notified as *SCA-I* and *SCA T-I*. From the above, it is clear

that, two posts are allotted to P.G.Assistant Commerce and as per communal

turn, one is reserved for SCA (SC Arunthathiyar) and the remaining is

reserved for SCAT (SC Arunthathiyar Tamil Medium). In the above

notification, there is no mention that the remaining one post is reserved for

SCA/HH (Harness of Hearing). While issuing the notification, the Board

has clearly notified the vacancies and its reservation under communal turn

for the post of P.G.Assistant Commerce. But, contrary to the above

notification, at the time of selection process, the Board cannot take a

different stand that the remaining the one post was allotted to SCA/HH,

following the rules of vertical reservation, considering the roster turn.

Further, without making any amendment to the said notification, mentioning

the above said rules of vertical reservation and roster turn, the appellant

cannot take such a decision, allotting the above post to SCA/HH.

Therefore, the learned Single Judge has rightly rejected the submission of

the appellant and passed the order as stated supra and we do not find any



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fault to interfere over it.

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7. Accordingly, this writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed. The appellant/ Board is directed to the comply the order passed by the learned Single Judge, within a period of three weeks from the date of receipt of a copy of the order.

(D.K.K.J.)

(K.B.J.)

30.04.2024

Internet: Yes/No

Index : Yes/No

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