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W.P.No.19300 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2024

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.19300 of 2022

and

W.M.P.No.18557 of 2022

M.Umapathi

...Petitioner

-Vs-

1. The State of Tamil Nadu,
represented by Secretary to Government,
Personnel and Administrative Reforms Department,
Fort St.George, Chennai-600 009.

2. The Teachers Recruitment Board,
represented by its Chairman,
4th Floor, EVK Sampath Maaligai,
DPI Campus, College Road,
Chennai-600 006.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, to forbear the second respondent from following communal rotation for the 5 posts of Lecturers in Computer Engineering reserved for persons with Bench Mark Disabilities as notified under clause 4 (b) of the Notification No.14 / 2019 dated 27.11.2019 issued by the second respondent and consequently issue a direction to the second respondent to fill up the 5 Posts reserved for persons with Bench Mark



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Disabilities for the posts of Lecturers in Computer Engineering on merits based on marks secured by the candidates in the written exam conducted by the second respondent for the post of Lecturers in Computer Engineering pursuant to Notification No.14/2019, dated 27.11.2019 issued by the second respondent.

For Petitioner : Mrs.Nalini Chidambaram, Senior Counsel
for M/s C.Uma

For R1 : Mr.A.M.Ayyadurai
Government Advocate

For R2 : Mr.R.Neelakandan, Additional Advocate General
Assisted by Mr.C.Kathiravan

ORDER

This Writ Petition has been filed forbearing the second respondent from following communal rotation for the 5 posts of Lecturers in Computer Engineering reserved for persons with BenchMark Disabilities as notified under clause 4 (b) of the Notification No.14 / 2019 dated 27.11.2019 issued by the second respondent and consequently, directing the second respondent to fill up the 5 Posts reserved for persons with BenchMark Disabilities for the posts of Lecturers in Computer Engineering on merits based on marks secured by the candidates in the written exam conducted by the second respondent for the post of Lecturers in Computer Engineering pursuant to Notification No.14/2019, dated 27.11.2019 issued by the second respondent.



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2. Heard the learned counsel for the petitioner, the learned Government Advocate for the first respondent and the learned Additional Advocate General for the second respondent and perused the materials available on record.

3. The petitioner had passed B.E.(Computer Science). He is a differently abled person suffering from Locomotor Disability and the percentage of disability is 50%. He belongs to BC category. He had applied for the posts of Lecturers in Government Polytechnic Colleges and Special Institutions (Engineering/Non-Engineering) for the year 2017-2018, as per the Notification No.14/2019, dated 27.11.2019. The total number of vacancies notified was 1060. Insofar as the Computer Engineering is concerned, the total vacancies notified are 135. Under Clause 4 of the Notification, for the persons with disability, 4% of the vacancies was reserved is as follows:-

“Category I : (a) Blindness and Low vision-1% Reservation.

Category II: (b) Deaf and Hard of Hearing-1% Reservation.

Category III : (c) Locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid victims, muscular dystrophy-1% Reservation.

Category IV : (d) Autism, intellectual disability, specific learning disability and mental illness and Multiple disabilities from amongst persons under

Clauses (a) to (d)-1% Reservation.



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Category-I

GT-1

BC-1

Category-II

GT (W)-1

Category-III

MBC/DNC-1

Category-IV

BC-1

Total=5''

4. The petitioner appeared for the written examination and he had secured 114 marks out of 190. As per the notification, blindness and low vision, cerebral palsy, muscular dystrophy, autism, intellectual disability, specific learning disability and mental illness and multiple disabilities from amongst persons under clauses 'a' to 'd' have been excluded from the list of categories of disabilities to be accommodated for the post of Lecturer. However, the second respondent failed to note the Annexure-I, Serial No.155 of G.O.Ms.No.20, dated 20.06.2018, issued notification dated 27.11.2019 setting out the categories of persons with disability for the 4% reservation for the vacancies in



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the posts of Lecturer for the persons suffering from benchmark disabilities. The disabilities which have not been recognized as eligible for the post of Lecturer as notified in Serial No.155, out of 135 posts available for the post of Lecturer in Computer Engineering, 4% of the 135 posts amounting to 5 vacancies are reserved for persons with benchmark disabilities. The petitioner suffers from Loco Motor disability (One leg) and as per the communal reservation set out in the notification for the 4% reservation for persons with disability, there is no vacancy notified for BC community under category III. If the vacancies for persons with disabilities are few in number, it is not practical to follow the communal rotation. Since the petitioner belong to BC category, he will not be selected for the post of Lecturer against 5 posts reserved for the persons with disabilities. However, the petitioner failed to challenge the notification and he had applied and undergone written examination. He had also scored 114 marks out of 190.

5. The second respondent filed counter and the learned Additional Advocate General appearing for the second respondent submitted that the Board had duly followed the communal turn and the order of rotation specified in Schedule-VI of Act 30 of 2017. Further the notification commence with the



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note that as per Judgment of Hon'ble Supreme Court of India made in SLP (C)

Nos.14206-14217 of 2019 dated 08.08.2019 fresh notification is issued calling for application for the post of Lecturers in Government Polytechnic Colleges (Engineering/Non-Engineering) for the year 2017-2018. Para 5(b)(iii) of Notification No.14/2019 dated 27.11.2019 is very clear that as per the existing Government Order in G.O.Ms.No.20, Welfare of Differently Abled Persons (DAP 3.2) Department, dated 20.06.2018, 4% was reserved for the Benchmark Disabilities under the Heading Special reservation for persons with disability. The amendment made to the Tamil Nadu Government Servants (Conditions of Service) Amendment Act, 2016, under Section 27(b) reads as follows:-

“ Amendment to Section 27:-

(b) Out of the total number of appointments referred to in clause (a), in the case of appointment made by direct recruitment, one percent each shall be reserved for persons with benchmark disabilities under categories (i), (ii) and (iii) and one percent for persons with benchmark disabilities under categories (iv) and (v) both taken together, namely:-

- (i) Blindness and low vision;*
- (ii) Deaf and hard of hearing;*
- (iii) Locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;*
- (iv) Autism, intellectual disability, specific learning disability and 'mental illness';*
- (v) Multiple disabilities from amongst persons under categories (i) to (iv) including deaf-blindness in the*



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posts identified for each disabilities;

(vi) including deaf-blindness in the posts identified for each disabilities; and the appointment shall be made in the turn and in the order of rotation specified in Schedule-VI.”

6. Accordingly, the Schedule VI for filling up the turns against the rotation reserved for persons with benchmark disabilities was made on 26.07.2017. Accordingly, the Board had followed the turns against the rotation. Accordingly, the notification was issued. Now, the petitioner claims not to follow communal rotation when the vacancies reserved for persons with benchmark disabilities are minimal but to fill up the notified vacancies based on the marks secured by the candidates under disability category is not sustainable. Further, the petitioner belongs to BC community and he falls under the Category III-Locomotor Disability. As per the notification, one post is reserved under communal rotation for category III is MBC/DNC category and there is no vacancy for BC under the disabled category. That apart, five posts reserved for persons with benchmark disabilities for the post of Lecturer in Computer Science Engineering have been filled up.

7. The learned Additional Advocate General appearing for the second



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respondent produced the provisional selection list for the post of Lecturer in Computer Science Engineering. Accordingly, 1 to 4 vacancies were filled up from the Candidates Nos.131 to 134. Insofar as the 135th candidate is concerned, it was withheld that falls under Category-IV.

8. In view of the above, this writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

10.01.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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Note: Issue order copy on or before 12.01.2024.



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G.K.ILANTHIRAIYAN. J,

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To

1. The Secretary to Government,
The State of Tamil Nadu,
Personnel and Administrative Reforms Department,
Fort St.George, Chennai-600 009.
2. The Teachers Recruitment Board,
represented by its Chairman,
4th Floor, EVK Sampath Maaligai,
DPI Campus, College Road,
Chennai-600 006.

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