



WEB COPY



W.P.No.18989 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2024

CORAM:

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

W.P.No.18989 of 2022
and W.M.P.Nos.18319 & 18321 of 2022

L.Priya

...Petitioner

-Vs -

1. The State of Tamil Nadu
Rep. by its Secretary to Government,
Personnel and Administration
Reforms (S) Department,
Secretariat, Fort St. George,
Chennai – 600 009.

2. The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maligai,
DPI Campus, College Road,
Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating selection list in respect of the post of lecturer in Government Polytechnic Colleges and Special Institutions (Engineering/ Non Engineering) under Post Code 19PT pursuant to the notification No.14/2019 dated 27.11.2019 for the year 2017-18, quash the same and consequently direct the respondents herein to appoint the petitioner as



W.P.No.18989 of 2022

lecturer in physics in Government Polytechnic Colleges and Special Institutions.

For Petitioner : Ms.A.L.Ganthimathi
Senior Counsel
For Ms.S.A.Kanmani

For Respondents
For R1 : Mr.U.Baranidharan
Additional Government Pleader

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

ORDER

This writ petition has been filed challenging the selection list in respect of the post of lecturer in Government Polytechnic Colleges in pursuant to the notification dated 27.11.2019 for the year 2017-18 and to direct the respondents herein to appoint the petitioner as Lecturer in physics in Government Polytechnic Colleges and Special Institutions.

2. The petitioner is a post graduate having obtained master decree in physics and also registered in the employment exchange. The second respondent invited application from the eligible candidates for direct recruitment for the post of Lecturers in government polytechnic colleges and special institutions for the year 2017-18, by the notification



W.P.No.18989 of 2022

No.14 of 2019 dated 27.11.2019. As per the notification, there were 1060 vacancies being notified and so far as the physics is concerned, 83 vacancies were notified for appointment as per the rule of reservation.

3. The petitioner had applied for the post of Lecturer in physics. She had written examination and secured 144 marks. However, she was not called for certificate verification. The petitioner raised ground that due to wrong preparation of question, 38 marks were given as grace marks to each and every candidates due to which, the candidates were given 38 marks in addition to the marks they had scored in respect of 26 questions. Out of those 38 marks, 8 marks were given to question Nos.19,16-1 mark and question Nos.11,17 and 23 – 2 marks. If the questions were correctly framed, no grace marks would be granted to the candidates, who were wrongly answered those questions.

4. That apart, the second respondent had given appointment under Person Studying in Tamil Medium (hereinafter referred to as “PSTM”) category, without considering the fact that there is no Tamil medium in M.Sc. Physics. Further the respondents started appointment



W.P.No.18989 of 2022

with General Turn (hereinafter referred to as “GT”) and third turn would be GT women. But the appointments have been made in respect of physics with a GT candidate which should have been appropriated in the GT and GT women turn should be later filled up as per the horizontal reservation. Hence, the petitioner filed this present writ petition with the above said prayer.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. On perusal of the counter filed by the second respondent revealed that the petitioner has scored 144 marks and she belongs to BC community. The minimum eligible cut off marks for certificate verification is 145 marks under B.C community. Therefore, the petitioner was not called for certificate verification. Insofar as the PSTM category, the Board will not by itself shortlist the candidates for PSTM quota. It will call the candidates based on their online application and will consider the candidates under PSTM category, if they produce the PSTM certificate during certificate verification. Therefore, no one was



W.P.No.18989 of 2022

appointment under the PSTM category. When there is no suitable persons available, the Board will consider non-Tamil medium candidates for filling the 20% reservation under PSTM category. There is no arbitrariness in the selection and the subject selection is not against the rule observation or rotation. The Board has strictly followed the selection norms as prescribed in the notification.

7. The learned Additional Government Pleader appearing for the first respondent relied upon the judgment of the Hon'ble Supreme Court of India in the case of ***State of Tamil Nadu & ors Vs K.Shobana etc.***, in ***Civil Appeal Nos.3745-3754 of 2020*** dated 05.03.2021 which held as follows :-

“20. Learned counsel also sought to contend that insofar as Tamil Nadu is concerned, the matter was settled long time back by the judgment of the High Court in K.R. Shanthi vs. Secretary to Government, Education Department, Chennai & Anr.8 It was clearly observed that candidates selected on merit under open quota should not be adjusted against reserved vacancy and the inter se seniority of candidates selected and appointed in that selection should be only on merit and not on the basis of roster points.....



.....

28. *We may also note that the manner of filling up the seats has been well enunciated in the judgment in K.R. Shanthi's case (supra) by the Madras High Court itself and appears to have been consistently followed. May be the peculiarity of the situation arising in Chemistry subject (which is in question) gives rise to this problem in the current year and such a problem had not apparently arisen earlier. In fact, there is no manner of doubt after the latest judgment of this Court in Saurav Yadav & Ors. case (supra) which again refers to the steps which have to be taken to fill in those vacancies. The steps are clear in their terms : in the given facts of the case, application of those principles or steps would imply:*

- a) the general merit list to be first filled in;*
- (b) the backlog vacancies of the particular reserved category to be thereafter filled in "first"; and*
- (c) the remaining reserved vacancies for the current year to be filled thereafter.*

29. *It appears that such a situation may not arise in the future as all backlog vacancies are stated to have been filled in. The performance and merit of candidates, as apparent from the list in question, would itself show as to how many candidates have been successful to attain appointment on a merit position*



W.P.No.18989 of 2022

without even availing of reservation- an extremely encouraging aspect! The increase in MBC/DNC candidates really does not impinge on the reservation of seats for other categories, nor does it violate any provision of the Constitution of India. 10 Though, of course, it would imply that some of the other candidates from different reserved categories would not be entitled to fill in the reserved seats of MBC/DNC categories, if those seats would have remained vacant.”

8. Thus it is clear that the respondent Board rightly published the shot-listed candidates by following the rule of reservation and turn wise categories as per the notification. Now the certificate verification has been completed from 16.07.2022 to 18.07.2022 and on 20.07.2022 for the absentees. Thereafter, they released the provisional selection list for all the subjects on 30.07.2022. The petitioner has not come under the zone of consideration for the certificate verification, since she scored only 144 marks. Therefore, the writ petition is devoid of merits and liable to be dismissed.



W.P.No.18989 of 2022

WEB COPY 9. Accordingly, the Writ Petition stands dismissed.

Consequently, connected miscellaneous petitions are closed. There shall be no orders as to costs.

08.01.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

rts



W.P.No.18989 of 2022

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State of Tamil Nadu,
Personnel and Administration
Reforms (S) Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The Chairman,
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