



WEB COPY



W.P.No.25107of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2024

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.25107of 2021

J.Anand

...

Petitioner

Vs.

1. The Commissioner,
Director of School Education,
DPI Campus, Chennai 600 006.

2. Teachers Recruitment Board,
Rep. by its Member Secretary,
DPI Campus, Chennai 600 006. ...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents to consider the Petitioner as a person who studied in Tamil Medium and accordingly direct the Respondents to select and appoint the Petitioner to the post of drawing teacher on the date when identically situated individuals are appointed with all service and monetary benefits.

For Petitioner : Mrs.Dakshayani Reddy, Senior counsel
for M/s.Suneetha



WEB COPY



W.P.No.25107of 2021

For Respondents : Mr.P.Gurunathan,
Additional Government Pleader for R1
: Mr.C.Kathiravan for R2

ORDER

The petitioner has filed this Writ of Mandamus seeking direction against Respondents to consider the petitioner as a person who studied in Tamil Medium and accordingly direct the Respondents to select and appoint the petitioner to the post of drawing teacher on the date when identically situated individuals are appointed with all service and monetary benefits.

2. The petitioner had applied for the post of special teacher. The petitioner has written the competitive examination subsequent to the notification dated 26.07.2017 and obtained 58 marks. The petitioner has also got a weightage of 5 marks for seniority since he had registered himself in employment exchange. The petitioner had studied all his school education and technical education only in Tamil. However, he has not produced the Person Studied in Tamil Medium [PSTM] certificate at the time of filing the application. The petitioner came to know only from the publication of the second list of selected candidates that the persons who obtained marks lower than him have been selected. Hence, this



petition.

WEB COPY

3. Heard, Mrs.Dakshayani Reddy, learned Senior counsel for the petitioner and Mr.P.Gurunathan, learned Additional Government Pleader for the first respondent and Mr.C.Kathiravan, learned counsel for the second respondent and perused the materials available on record.

4. Mrs.Dakshayani Reddy, learned senior counsel for the petitioner submitted that even though the petitioner has not produced the PSTM certificate at the time of filing his application, pursuant to the certificate verification notification issued on 22.10.2021, the petitioner produced the certificate along with his representations dated 16.10.2021 and 23.10.2021. In fact, the petitioner gave the representation on 16.10.2021 itself by stating that his name has not been included in the list of candidates who have been selected under the PSTM category.

4.1. It is further submitted that the petitioner is a physically disabled candidate and though he is also entitled for consideration under physically disabled category, he has not been selected under the reserved category for the physically disabled category also. Since the petitioner's name has not been considered under both the categories, the petitioner has filed this petition with the



above-mentioned prayer.

5. Mr.P.Gurunathan, learned Additional Government Pleader for the first respondent filed a counter affidavit and submitted that the petitioner had not produced any PSTM certificate at the time of filing the application. Even during that time of certificate verification, the petitioner was not able to produce the PSTM certificate. Hence, the petitioner was considered under the General Turn category (GT) and the cut off mark for the GT category is 63. Since the other candidate also got the same marks and was older than the petitioner, she was selected. The notification dated 22.10.2021 will be applicable to those persons, who have already produced certificates and on that basis, their names have been included in the selection list. Since the petitioner did not mention in the application itself about his PSTM eligibility and later also did not produce any certificate, he was not considered.

6. Mrs.Dakshayani Reddy, learned senior counsel for the petitioner, further submitted that on the same set of facts, a similarly placed person filed a Writ Petition in WP.(MD)No.22109 of 2018 and got a favourable order to be considered for appointment.

7. Attention was drawn to the order dated 24.04.2023 made in



WP.(MD)No.22109 of 2018, wherein, on similar set of facts, a direction was given to the respondent to appoint that petitioner, in any one of the available vacant posts.

8. Admittedly, the petitioner did not produce the PSTM certificate at that time, along with his application. It is understandable that at the time when the selection list was published, it was not within the knowledge of the Teachers Recruitment Board / 2nd respondent to presume that the petitioner would fall under the PSTM category. However, before the certificate verification started, the petitioner had sent a request to consider him in the PSTM category. Even that would not have been possible because the notification would have been issued in respect of those persons who had already been found in the selection list in the PSTM category and who had already filed their certificates along with their applications.

9. However, even in the provisional list, the candidates who were called for certificate verification, subsequent to Sl. No. 278, it is found that some candidates with MBC/DNC G MI were not available and MBC/DNC WMI is also not available. The petitioner has submitted that he also belongs to MBC, he could have been considered against Sl. No. 293 at least.



10. The petitioner has obtained 63 marks. The cut-off marks for the MBC [GT] category is also 63. The petitioner could not get the benefit of getting the appointment under MBC GT because he is not senior to the other persons who have got similar 63 marks.

11. However, the petitioner could have been accommodated in the '*not available*' vacancy as against MBC/DNC G MI-SL.No.293 in the selection list, because it is not the claim of the respondents that even the person appointed as against Sl.No.293 was also senior to the petitioner in age and obtained 63 marks or above. Even if the petitioner loses his opportunity to get an appointment under the PSTM category or the physically challenged category, he can still be found eligible to get the appointment under the MBC GT category, for which, so far the minimum cut-off mark is 63 only. Since the petitioner already has 63 marks, he could be accommodated in the available vacancy. This is irrespective of the fact that he has not produced PSTM certificate or physical disability certificate at the time of filing the application.

12. In view of the above-stated reasons, this Writ Petition is **allowed** and the petitioner, who is found to be eligible to be appointed under MBC/DNC G MI in Sl. No. 293 and not in PSTM or physically challenged category, the



W.P.No.25107of 2021

respondents could have accommodated him for either any one of the above categories at the most in the PSTM GT Male category. Hence, the respondents are directed to finish the certificate verification of the petitioner and consider his appointment as falling under the above categories. No costs.

12.02.2024

Internet : Yes/No
Speaking/Non- Speaking
Neutral: Yes/No
jrs



WEB COPY



W.P.No.25107 of 2021

R.N.MANJULA, J.

jrs

To

1. The Commissioner,
Director of School Education,
DPI Campus, Chennai 600 006.
2. Teachers Recruitment Board,
Rep. by its Member Secretary,
DPI Campus, Chennai 600 006.

W.P No.25107 of 2021

12.02.2024