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WP.No.7940/2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.7940 of 2017
& WMP.No.8693 of 2017

M.Punitha

...Petitioner

VS.

1.The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai – 600 009.

2.The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.

3.The Member Secretary,
Teacher Recruitment Board,
E.V.K. Sampath Maligai,
4th Floor, DPI Campus, College Road,
Chennai – 600 006.
Respondents

...

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceeding issued by the 3rd Respondent in Na.Ka.No.168/Aa2/2017 dated 25/01/2017 and to quash the same and



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consequently direct the Respondents to consider the Petitioner for selection and appointment to the post of B.T.Assistant under Destitute Widow Category by applying Special Reservation as per Service Rules.

For Petitioner	: Mr.S.Nedunchezhiyan
For R1 and R2	: Mr.S.Prabhakaran, Government Advocate
For R3	: Mr.C.Kathiravan, Standing Counsel

ORDER

The Writ Petition is filed seeking for a Writ of Certiorarified Mandamus, calling for the records of the 3rd Respondent in Na.Ka.No.168/Aa2/2017 dated 25/01/2017 and to quash the same and consequently direct the Respondents to consider the Petitioner for selection and appointment to the post of B.T.Assistant under Destitute Widow Category by applying Special Reservation as per Service Rules.

2.The petitioner states that she belongs to BC community and further that she is qualified with B.Sc., Chemistry and B.Ed., and therefore, being eligible to the post of BT Assistant, she registered in employment exchange aspiring for appointment. According to the petitioner, Rule 21 of the Tamil Nadu State and Subordinate Service Rules provides that 30%



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vacancy had to be filled up with women candidates and 10% vacancies out of 30% vacancy reserved for women should be set apart for destitute widows.

The first vacancy in every 10 vacancies set apart for women in each category shall be filled up by destitute widows and if no qualified and suitable destitute widow is available, the turn so set apart would go to the women category. The petitioner therefore states that as per Rule 21, the respondents were bound to provide reservation for destitute widow and that if the reservation as per Rule 21 was followed, she would have got selected for appointment. As the petitioner was not selected, she made a representation to the third respondent to consider her request under the destitute women category but, the third respondent rejected her representation vide the impugned order dated 25.01.2017. The petitioner therefore, filed the Writ Petition challenging the said order.

3.The learned counsel for the petitioner submitted that as per the Tamil Nadu State and Subordinate Service Rules and particularly Rule 21, the respondents were bound to provide reservation under the special category for destitute widows and failure to provide such reservation resulted in injustice to the petitioner, who otherwise would have been selected under the



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said category. The learned counsel further submitted that out of the 30% reservation for women as per the Service Rules, 10% was reserved for destitute women and that for every 10 vacancies, 1 vacancy had to be filled by women belonging to the destitute women category. Since the respondents having failed to follow the same, the petitioner filed the Writ Petition for the aforesaid prayer.

4.The learned Government Advocate appearing for the respondents 1 and 2 relying on the counter filed by the third respondent submitted that Sub Rule (b) of Rule 21 of the Tamil Nadu Subordinate Service Rules provides as follows:

“..Provided that in the case of direct recruitment to the posts with Grade Pay which does not exceed Rs.2800/-, ten percent of vacancies out of thirty percent vacancies set apart for women shall be set apart for destitute widows and the first vacancy in every ten vacancies set apart for destitute widows and the first vacancy in every ten vacancies set apart for women in each category namely the General Turn, Backward Class Muslims, Backward Classes, Most Backward Classes/Denotified Communities, Scheduled Castes or



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Scheduled Tribes shall be set apart for destitute widows. If no qualified and suitable destitute widow is available, the turn so set apart for destitute widow shall go to the women (other than destitute widow) belonging to the respective category.”

5.The learned counsel submitted that it is admitted that the scale of pay of the BT Assistant category is Rs.9300-34800 with grade pay of Rs.4600. Therefore, as per the proviso to Sub Rule (b) of Rule 21 special reservation under the destitute widow category was not given. The learned counsel further submitted that under the women category, the petitioner had obtained 63.71 weightage marks in the subject B.Sc., Chemistry, which was much below the cut off 66.86 under the BC (General) category and 66.90 under the BC (Women) category. The learned counsel therefore, submitted that even on merits, the petitioner had not obtained the eligible cut off marks and hence, she could not be considered either under BC(G) category or the BC (W) category.

6.Heard the learned counsels on either side and perused the materials on record.



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7.As rightly contended by the learned Government Advocate, the proviso to Sub Rule (b) of Rule 21 clearly states that the reservation for destitute women can be given only for the post with Grade Pay which does not exceed Rs.2800. Admittedly, the Grade Pay of BT Assistant, for which the petitioner applied and was not selected, carries a Grade Pay of Rs.4,600 with a scale of pay of Rs.9300-34800. Hence, the contention of the petitioner that there was a violation of Rule 21 cannot be countenanced. As far as the consideration of the petitioner under BC(G) and BC(W) category is concerned, the respondent has categorically stated that she did not obtain the cut off marks and therefore, she was not selected.

8.In the light of the above, I find no merit in the Writ Petition and the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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Tsg

Index : Yes/No

Internet:Yes/No

Speaking Order/Non-speaking Order



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N.MALA, J.



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