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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.10.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.29172 of 2024
and WMP No.31860, 31861 and 31862 of 2024

P.Uma Maheswari

..Petitioner

Vs.

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

2. Teachers Recruitment Board,
Rep. By its Secretary,
Puratchi Talaivar Dr.MGR Centenary Building,
Perasiriyar Anbazhagan Kalvi Valagam,
DPI Campus, College Road,
Chennai 600 006

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent relating to the provisional selection list for direct recruitment of Graduate Assistants dated 24.7.2024 for the subject Geography pursuant to



Notification No.03/2023 dated 25.10.2023 passed by the 2nd respondent and quash the same in so far as the 2nd respondent has not followed the Rule of Reservation given in section 27 of the Tamil Nadu Government servants (conditions of service) Act 2016 while preparing the provisional selection list for the post of Graduate in Geography and consequently direct the 2nd respondent to prepare a fresh provisional selection list for direct recruitment of Graduate Assistant /BRTE-2023 for the subject Geography pursuant to Notification No.3/2023 dated 25.10.2023 following the rule of reservation given in section 27 of the Tamil Nadu Government servants (conditions of service) Act 2016 and the procedure for award of weightage marks for TET qualification.

For Petitioner : Mrs.Nalini Chidambaram
Senior Counsel for Mrs.C.Uma
For Respondents : Mr.K.Tamilvendan
Government Advocate for R1
Mr.K.Sathish Kumar
Standing Counsel for R2

ORDER

This writ petition has been filed challenging the provisional selection list published by the 2nd respondent on the ground that the 2nd respondent has not followed the rule of reservation as per Section 27 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 while preparing the provisional selection list for the post of Graduates in Geography



and for a consequential direction to the 2nd respondent to prepare a fresh provisional selection list for direct recruitment to the said post by following the rule of reservation as per the Act.

2. Heard Mrs.Nalini Chidambaram, learned Senior Counsel for Mrs.C.Uma, learned counsel for the petitioner and Mr.K.Tamilvendan, learned Government Advocate for 1st respondent and Mr.K.Sathish Kumar, learned Standing Counsel for 2nd respondent.

3. The very same petitioner had earlier filed WP No.23143 of 2024 challenging the selection mainly on the ground that the petitioner was not given the additional weightage mark for TET qualification. Even when that writ petition was filed, the petitioner could have challenged the selection on the ground that has now been raised in the present writ petition. The petitioner cannot be allowed to take a new ground and file a fresh writ petition every time challenging the same selection. The principle of constructive *res judicata* will equally apply even in writ proceedings. Useful reference can be made to the judgment of this Court in **[C.Augustine Jacob Vs.The Union of India, rep. by**



its Secretary, Ministry of Shipping, Road Transport and Highways, New Delhi and another] reported in **2007 5 CTC 210** and in **[Mrs.C.Manimala**

and others Vs. The District Collector and others] reported in **2016 4 CTC**

67. It has been made abundantly clear that the petitioner must exercise proper diligence and should not have given up a claim which was available even while filing the earlier writ petition. However, the petitioner cannot retain an issue which was available while filing earlier writ petition and raise the same subsequently by filing a fresh writ petition.

4. In the case in hand, the issue that was raised by the petitioner was very much available when the earlier writ petition was filed in WP No.23143 of 2024. Since the same was not raised, the petitioner cannot be allowed to raise a new ground by way of filing a fresh writ petition. Hence, this Court is of the considered view that the present writ petition is barred by the principles of constructive *res judicata*.

5. In the light of the above discussion, this Court does not find any ground to interfere with the provisional selection list and accordingly, this writ



petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

14.10.2024

Internet : Yes/No
Index : Yes/No
Speaking Order / Non Speaking Order
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N. ANAND VENKATESH, J.

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To

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