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W.A.Nos.405 & 41



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2024

CORAM:

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
and
THE HON'BLE MR.JUSTICE K.KUMARESH BABU**

W.A.Nos.405 & 413 of 2019

S.R.Sreeja

...Appellant in W.A.No.405/2019

K.Sindhu

...Appellant in W.A.No.413/2019

VS.

The Chairman,
Teachers Recruitment Board,
College Road,
Chennai – 600 006.

...Respondent in both appeals

Prayer in W.A.No.405 of 2019: Writ Appeal filed under Clause 15 of the Letters Patent Act, against the order passed by the learned Single Judge in W.P.No.8063 of 2013 dated 06.09.2018.

Prayer in W.A.No.413 of 2019: Writ Appeal filed under Clause 15 of the Letters Patent Act, against the order passed by the learned Single Judge in W.P.No.8066 of 2013 dated 06.09.2018.



W.A.Nos.405 & 41

For Appellants in both appeals : Mr.K.Sathish Kumar

For Respondent in both appeals : Mr.R.Neelakandan,
Additional Advocate General
assisted by Mr.K.Sathish,
Standing Counsel for TRB

COMMON JUDGMENT

(Judgment of the Court was delivered by K.KUMARESH BABU, J.)

These Intra Court Appeals have been preferred by the respective appellants being aggrieved against the order of the dismissal of the Writ Petitioner wherein they had sought for a mandamus to direct the respondent to appoint them as B.T. Assistant.

2.We have heard Mr.K.Sathish Kumar, learned counsel for the appellants and Mr.R.Neelakandan, learned Additional Advocate General assisted by Mr.K.Sathish, learned Standing Counsel for the respondent.

3.Learned counsel for the appellant would submit that the unsuccessful petitioners are qualified to be appointed as B.T. Assistant in History & Botany subjects respectively and they had also participated in the supplementary examination conducted by the respondent wherein they were declared to be qualified in the examination. Thereafter, they had been called for certificate verification. But, on the other hand, they had not been given any appointment.



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But, however, various other candidates who have called for certificate verification have been appointed. Therefore, they had made a representation to the respondent seeking for an appointment which had not been considered by them. Therefore, they had approached this Court with the prayer for the direction to direct the respondent to appoint them as B.T. Assistant.

4.Learned counsel for the appellant would submit that the learned Single Judge without appreciating the merits of the case had held that the petitioners had not added the persons who had successfully appointed as necessary parties to the *lis* and further, he had held that the appointment cannot be claimed as a matter of right. The learned Single Judge had further recorded that since the present appointments are being made only through the Teachers Recruitment Board at this length of time, the claim of the petitioners cannot be considered and he had also not discussed as to why the petitioners are not eligible to be appointed to the post which they had applied for. Therefore, he would seek interference of this Court to issue a direction to the respondent to consider the case of the petitioners.

5.Mr.R.Neelakandan, learned Additional Advocate General appearing for the respondent would submit that the appellant in W.A.No.405 of 2019 belong to

BC category and the appellant in W.A.No.413 of 2019 belong to OC category.



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However, as per the roster point, the vacancy in the said categories had been earmarked to the Scheduled Caste & Scheduled Tribe candidates and therefore, the petitioners claim could not be considered. He would further submit that pursuant to the directions issued by this Court, a common affidavit dated 20.12.2023 had been filed before this Court explaining the backlog vacancies and the current vacancies.

6.He would submit that in respect of History subject, there was one backlog vacancy & one current vacancy and that the backlog vacancy in the said subject arose due to non availability of a candidate in Scheduled Caste category in the earlier recruitment and that as per the roster point, the current vacancy had been earmarked for a Scheduled Tribe category. In respect of Botany subject, there was only one backlog vacancy which arose out of non filing of a Scheduled Caste Woman in the earlier recruitment and that there was no current vacancy.

7.In such view of the matter, he would submit that both the appellants are belong to the different categories, they cannot be accommodated in the vacancies that arose in the year 2012. Therefore, he would submit that the Writ Appeals will have to be dismissed.



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8.We have considered the rival submissions made by the respective counsels and perused the materials available on record before this Court.

9.The appellants herein had applied to the post of B.T. Assistant for History & Botany subjects respectively. During the course of hearing on 12.09.2023, this Court had directed the learned Additional Advocate General to ascertain as to how many vacancies have been earmarked for the post of B.T. Assistant in the Malayalam Medium of Education for the recruitment year 2012 based upon 200 point roster. An affidavit had been filed by the respondent indicating that there were two vacancies in the History subject. Out of the two vacancies, one vacancy had been earmarked as a backlog vacancy arising out of non availability of a Scheduled Caste Candidate and that as per the roster, the current vacancy in the said subject had been earmarked for a Scheduled Tribe candidate. Similarly, in respect of Botany subject, there was only one vacancy and the same was a backlog vacancy arising out of a non availability of the candidates under the Scheduled Caste Woman category.

10.It is also not disputed by the appellants that neither of them belonged to Scheduled Caste or Scheduled Tribe category.



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11.In such circumstances, we are of the view that when the post had been earmarked for a particular category, the same can be filled only through that community and when the appellants does not belonged to the said reserved community cannot claim to be get themselves appointed in the vacancies that was available during the recruitment process of the year 2012. They could be only considered for teaching subjects either under the backlog general category or the open category for which vacancies were not available. Therefore, the claim of the appellants cannot be considered.

12.In fine, the Writ Appeals fail and are accordingly dismissed. There shall be no order as to costs.

(R.S.K.,J.) (K.B.,J.)
04.01.2024

Index: yes/no
Speaking order:yes/no
Neutral Citation:yes/no
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To

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The Chairman,
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College Road,
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R.SURESH KUMAR, J.
and
K.KUMARESH BABU, J.

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