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W.P.(MD) No.7586 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.7586 of 2021

and

W.M.P.(MD) Nos.5759 & 5760 of 2021

M.Sudha

... Petitioner

-vs-

1.The State of Tamil Nadu
rep.by its Secretary
School Education Department
Fort St.George, Chennai

2.The Teachers Recruitment Board
rep.by its Chairman
DPI Compound, Chennai

3.The Teachers Recruitment Board
rep.by its Member (School Education)
DPI Compound, Chennai

4.The Director of School Education
DPI Campus
Chennai

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned revised provisional selection list published by the third respondent vide his proceedings Nil date 28.12.2020 (published in the official website of TRB) insofar as the non-inclusion of the name of the petitioner is concerned and the consequential impugned proceedings in R.C.No.8019/E6/2018, dated 23.03.2021, issued by the third respondent and quash the same as illegal and consequentially to direct the respondents to appoint the petitioner to the post of Computer Instructor Grade-I taking into consideration of the marks secured by the petitioner and her qualification, within the time stipulated by this Court.

For Petitioner : Mr.H.Mohamed Imran
for M/s.Ajmal Associates

For Respondents : Mr.T.Amjad Khan
Government Advocate for R1 & R4
Mr.V.R.Shanmuganathan
Standing Counsel for R2 & R3



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ORDER

The issue that arises for consideration in this writ petition is whether the petitioner, who was eligible for selection to the post of Computer Instructor Grade-I, was wrongfully denied selection, as seen from the impugned selection list, on the ground that she produced the mark sheet subsequent to the cut off date fixed under the recruitment notification.

2. Learned Standing Counsel appearing for the respondent – Teachers Recruitment Board would submit that the petitioner is not entitled to be selected to the subject post, since she had submitted the mark sheet subsequent to the cut off date fixed under the recruitment notification. According to the Teachers Recruitment Board, it is mandatory for the candidate to possess the relevant certificates prior to the cut off date.

3. For better understanding of the case, the following dates and events pertaining to the petitioner's case are highlighted.



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S.No	Date	Details
1	01.03.2019	Notification date for Computer Instructor Grade-I (PG cadre) Notification No.09/2019, dated 01.03.2019
2	10.04.2019	Cut off date in Notification 10.04.2019
3	11.03.2019	M.Sc., Computer Science final result published in the website of Bharathiar University, Coimbatore – During PG Jan 2017 to Dec – 2018 Calender year
4	20.03.2019 to 10.0.2019	Online Application filling date limit
5	24.03.2019	My Online Application submitted date. Result Published date mentioned in online application software is upto March 2019 (31.03.2019)
6	16.06.2019	Computer Based Examination Admit Card Published in TRB Website
7	23.06.2019	I attend my computer based online Exam in KPR institute of Engineering & Technology, Coimbatore
8	25.11.2019	Computer Based Exam Result Published date
9	28.11.2019	cv list & Document uploaded details published
10	05.12.2019	List of Documents to be uploaded in TRB Website
		1.Additional Details (This online software also mentioned about Result published date but not asked (mentioned) Certificate Issued date.
		2.Upload documents
11	03.01.2020	Certificate Verification Call letter published date
12	03.01.2020	Rejection list published before CV
13	08.01.2020	I attend my CV in Govt. G.hr.Sec.School, Chennai-600083
14	11.01.2020	Ineligible list published after CV
15	11.01.2020	Provisional selection list published date (My name appear in Row no:



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16	17.12.2020	One man public notice w.p.no.35198/2019 Published
17	28.2.2020	Revised provisional selection list (My Name not appear in the whole list)
18	29.12.2020	I submitted my request letter to TRB office
19	31.01.2020	I submitted my request letter to TRB office through courier
	07.01.2020	Judgment copy
20	08.02.2020	I submitted my first case judgment copy to TRB Office
21	23.03.2021	TRB refused to the judgment letter from Madurai High Court Order
22	07.07.2021	RTI – Bharathiar University

4. Learned counsel for the petitioner drew the attention of this Court to a Division Bench Judgment of this Court, dated 22.09.2021, passed in W.A.No.237 of 2021, in the case of ***The State of Tamil Nadu and others vs. M.Sankar and others*** pertaining to a different recruitment notification, but involving a similar issue. Relying upon the said judgment, learned counsel for the petitioner would submit that since the petitioner was eligible and fully qualified to apply for the subject post as per the recruitment notification prior to the cut off date, her recruitment cannot be rejected, on the sole ground that she produced the mark sheet only on 16.04.2019, which is subsequent to the cut off date i.e. 10.04.2019. He would submit that a similar



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issue was considered by the Division Bench of this Court in the aforesaid decision and the Division Bench of this Court has held that even though the relevant document was submitted beyond the cut off date and the candidate was fully qualified and eligible, he could not be deprived of his selection.

5. Learned counsel for the petitioner drew the attention of this Court to another Division Bench Judgment of this Court, dated 25.08.2023, passed in W.A.(MD) No.1339 of 2023, in the case of ***the Secretary to Government and others vs. Minor S.Priyadharshan and others*** and would submit that the Division Bench, in the aforesaid decision, has observed that there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains to the domain of procedure and therefore, applying the ratio laid down by the Division Bench of this Court in the aforesaid decision, the respondents ought to have selected the petitioner for the post of Computer Instructor Grade-I, as she is fully eligible and qualified to be appointed to the said post. He also distinguished the Judgment rendered by the learned Single Judge of this Court on 05.02.2021, in a batch of writ petitions in W.P.No.266 of 2020 etc., in the case of ***S.Sindhu vs. Government of Tamil Nadu and another***, wherein, the writ



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petitions were dismissed, by submitting that the facts and circumstances of that case are different from the facts and circumstances of the instant writ petition. He would submit that the petitioners therein were not eligible to be appointed to the subject post and on that ground, the writ petitions came to be dismissed.

6. On the other hand, Mr.V.R.Shanmuganathan, learned Standing Counsel appearing for the respondent – Teachers Recruitment Board, would submit that since the petitioner has not challenged the recruitment notification, which makes it mandatory for the candidates to have the required documents / certificates prior to the cut off date, the respondents have rightly excluded the name of the petitioner from the selection list, as she did not have the mark sheet prior to the cut off date, but she produced the same only at the time of verification of documents. He would also rely upon the Judgment rendered by the learned Single Judge of this Court on 05.02.2021, referred to supra, which was distinguished by the learned counsel for the petitioner, and would submit that since the petitioner was not eligible as per the recruitment notification on or before the cut off date, her name has been rightly excluded from the selection list.



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7. It is an undisputed fact that the petitioner was fully qualified and eligible to be appointed as Computer Instructor Grade-I, as per the recruitment notification issued by the respondents. The cut off date, as per the notification dated 01.03.2019, is 10.04.2019. The petitioner has satisfied all the educational requirements as per the recruitment notification dated 01.03.2019 prior to the cut off date. Her M.Sc., Computer Science final year results were published in the Website of Bharathiar University, Coimbatore, on 11.03.2019 i.e. prior to the cut off date. It is not in dispute that the educational qualifications prescribed under the recruitment notification have been satisfied by the petitioner. However, the respondents rely upon the “Note” mentioned in the educational qualification column, which is reproduced hereunder, to support their contention that the name of the petitioner has been rightly excluded from the selection list.

“Note: All qualifying / equivalent certificates should have been obtained prior to the last date for submission of filled-in online applications, announced in the recruitment notification.”



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8. In the instant case, M.Sc., Computer Science final year results were published only in the month of March, 2019. Therefore, it is impossible for the petitioner to obtain the mark sheet, provisional certificate and degree certificates on or before the cut off date, though she is fully qualified and eligible for appointment to the post of Computer Instructor Grade-I, as per the recruitment notification. Admittedly, the petitioner was directed to produce the documents for verification only in the month of January, 2020. Admittedly, on that date, the petitioner had produced all the relevant documents required to be produced as per the recruitment notification.

9. A Division Bench of this Court had an occasion to consider a similar “Note”, as extracted supra, in its Judgment dated 22.09.2021, passed in W.A.No.237 of 2021, though it pertains to a different recruitment notification. The Division Bench of this Court has held that the above “Note” found in the notification is not mandatory. It is only directory in nature as it cannot be read in isolation without reference to the entire educational qualification as what is required is that the candidate must possess the qualification as per the notification on the date or before the last date of



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submission of application through online mode. The Division Bench of this Court, in the aforesaid decision, had also followed the decision of the Honourable Supreme Court in the case of ***Food Corporation of India vs. Rimjhim [2019 (5) SCC 793]*** as well as the Division Bench Judgment of this Court in the case of ***the Chairman, Teachers Recruitment Board vs. B.Jaiwanth and others***, rendered on 23.12.2020, passed in W.A.(MD) No. 1058 of 2020, and observed that a narrow interpretation to the “Note” cannot be given when there is no condition prescribed in the notification that if the certificates are not uploaded before the last date of submission of application, the candidature will be rejected.

10. In the case on hand also, under the recruitment notification, there was no condition imposed that in case the candidate does not possess the required certificates, though he is otherwise fully eligible and fully qualified on or before the cut off date, his candidature can be rejected. Therefore, the decision rendered by the Division Bench of this Court in the aforesaid decision squarely applies to the facts and circumstances of the instant case, as a similar “Note” to the one, which is the subject matter of consideration in this writ petition, was held to be directory and not mandatory



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and it was held that the rejection of the candidature of the candidate only due to the fact that the candidate did not have the certificates prior to the cut off date is not proper.

11. Learned counsel for the petitioner had also relied upon another Division Bench Judgment of this Court, dated 25.08.2023, passed in W.A.(MD) No.1339 of 2023, referred to supra, and even in the said decision, it was held that there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains to the domain of procedure. It was also observed that every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature.

12. Learned Standing Counsel appearing for the respondent – Teachers Recruitment Board placed reliance on the Judgment rendered by a learned Single Judge of this Court on 05.02.2021 in a batch of writ petitions in W.P.No.266 of 2020 etc. batch, in the case of **S.Sindhu vs. Government of Tamil Nadu and another** and would submit that the learned Single Judge had dismissed the batch of writ petitions, on the ground that the petitioners



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therein were not eligible and qualified on the cut off date, as per the recruitment notification. He would draw parallel to the facts of the present case and would submit that since the petitioner herein was not possessing the mark sheet prior to the cut off date, she is not eligible or qualified to be appointed as Computer Instructor Grade-I, as per the recruitment notification, dated 01.03.2019. In the decision relied upon by the learned Standing Counsel appearing for the respondent – Teachers Recruitment Board, as seen from the facts and circumstances of the case, the candidates were not eligible or qualified prior to the cut off date, whereas, in the instant case, the petitioner is qualified and eligible to be appointed to the subject post as per the recruitment notification.

13. Learned Standing Counsel appearing for the respondent – Teachers Recruitment Board had also submitted, while relying upon the decision of the learned Single Judge of this Court in W.P.No.266 of 2020 etc., batch, referred to supra, that the petitioner ought to have challenged the very recruitment notification, which contains the said “Note”. According to him, having not challenged the same, the petitioner is not entitled to file this writ petition.



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14. As held by the Division Bench of this Court in the decision relied upon by the learned counsel for the petitioner, the “Note” is only directory in nature and it is not mandatory. It is also to be noted that it would have been impossible for the petitioner to possess the mark sheet prior to the cut off date, since her M.Sc., Computer Science final year results were declared only in the month of March, 2019. Within a span of few days, no University will issue the mark sheet / provisional certificate / degree certificates from the date of publication of the results. Therefore, being only directory in nature, the “Note”, referred to in the recruitment notification, has to be interpreted only in favour of the petitioner by holding that it is not mandatory for the petitioner to possess the mark sheet prior to the cut off date. The petitioner has produced all the documents, as per the recruitment notification, when she was called upon to produce the same by the respondents at the time of verification of documents.

15. For the foregoing reasons, the respondents, by non-application of mind, have erroneously excluded the name of the petitioner from the selection list for the post of Computer Instructor Grade-I, as per the



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recruitment notification. In view of the same, the writ petition will have to be allowed.

16. Accordingly, this writ petition is allowed by directing the third respondent to send a revised selection list to the fourth respondent by including the name of the petitioner in the selection list to the post of Computer Instructor Grade-I, within a period of four weeks from the date of receipt of a copy of this order and on receipt of a copy of the same, the fourth respondent shall issue an appointment order to the petitioner for the subject post, within a period of four weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

06.08.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

- 1.The Secretary,
School Education Department,
State of Tamil Nadu,
Fort St.George, Chennai.
- 2.The Director of School Education,
DPI Campus,
Chennai.



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ABDUL QUDDHOSE, J.

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and

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