



W.P.(MD)No.16220 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.04.2025

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THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD)No.16220 of 2019

and

W.M.P.(MD)No.12898 of 2019

M.Senthilkumar

... Petitioner

Vs.

1.State of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
Secretariat, Chennai.

2.Teachers Recruitment Board,
Represented by its Chairman,
4th Floor, EVK Sampath Maaligai,
DPI Compound, College Road,
Chetpet, Chennai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to appoint the petitioner (Roll No.17PG15110243) as Post Graduate Assistant-Commerce in the Backward Class community under Differently-abled category (Ortho) after certificate verification as per the Notification No. 03/2017, dated 09.05.2017 for the Direct recruitment of Post Graduate Assistants/Physical Education Directors Grade-1-2016-2017 issued by the second respondent of consider the petitioner representation dated 25.04.2018.



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For Petitioner : Mr.

For R1 : Mr.

ORDER

This writ petition has been filed to direct the respondents to appoint the petitioner to the post of Post Graduate Assistant-Commerce in the Backward Class Community under differently-abled category (Ortho) as per the notification No.03/2017, dated 09.05.2017 and to consider the petitioner's representation dated 25.04.2018.

2.The case of the petitioner is that he differently-abled candidate with 60% of Orthopedic disability. He studied M.Com and B.Ed (Commerce) in a regular mode. The Teachers Recruitment Board made a paper publication for the post of Direct recruitment of Post Graduate Assistants/Physical Education Directors Grade-1-2016-2017 vide notification No.3/2017 dated 09.05.2017. He applied for Post Graduate Assistant for commerce subject and he appeared for the examination. The Teachers Recruitment Board published the result on the basis of 1:1 and he has secured 79 marks. The Board published subject-wise provisional list of candidates called for certificate verification and some



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posts were reserved for persons with disability by stating reason that pending of writ petition in W.P.No.13350 of 2017. The Board not disclosed the details regarding his marks, awarding marks to the employment seniority. He had scored 79 marks in the written examination and eligible to get 3 marks for employment seniority. Hence, the totally secured 82 marks, which is eligible for the post in Orthopedical Impairment category. He filed a writ petition in W.P.No. 33793 of 2017 praying for appointment and the same was dismissed as infructuous on 23.02.2018. The Board increased the percentage of reservation to the differently-abled category from 3 % to 4% and further increased new vacancy to the differently-abled category. He made representation on 25.04.2018 directly and his representation is under process, as per second respondent's letter dated 30.11.2018. The second respondent without following the orders without honouring his words, issued fresh notification through No.10/2019 dated 12.06.2019 for the direct recruitment of Post Graduate Assistants/Physical Education Directors Grade-1-2018-2019. Hence, the writ petition.

3.The learned counsel appearing for the petitioner would submit that the act of the Board is highly arbitrary one and without assigning



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any valid reason for not selecting the petitioner for the post of Post Graduate Assistant for Commerce subject, the Board issued another notification, which is in violation of Articles 14, 16 and 19 of the Constitution of India. The Board ought to have called for certificate verification and allotted three marks for his employment seniority as per prospects and without selecting him under the person with disability category, issued fresh notification, which is not sustainable.

4.Per contra, the learned counsel appearing for the Board would submit that as per order of this Court dated 07.08.2017 in W.P.13350 of 2017 has directed the Board to keep 4% of total vacancies for reserve for disabled persons. Accordingly, the Board reserved 130 vacancies unfilled to disabled categories. He would submit that as per the final orders passed in W.P.No.13350 of 2017 dated 15.12.2017, the Board has issued fresh notification No.10/2019 dated 12.06.2019 calling for online applications for the recruitment of Post Graduate Assistant 2017-18. He would submit that the Board included the vacancies earmarked for disabled categories not filled during the previous recruitment in the notification pursuant to the order passed in W.P.No.13350 of 2017 dated 15.12.2017. He would submit that the relief sought for in this petition

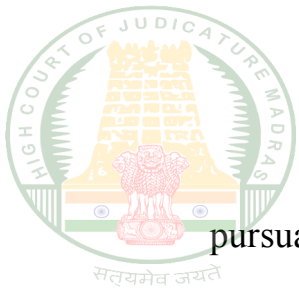


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has become infructuous, since the claim of the petitioner is on the basis of the notification issued in the year 2017 and now the Board has issued fresh notification for filling up reservation category of the post, on 12.06.2019.

5.This Court has considered the submissions made on either side and perused the records.

6.It is seen from the records the typed-set of papers that the Board has issued hall ticket to the petitioner for the direct recruitment for Post Graduate Assistant 2015-2016 and 2016-2017 in Roll No.17PG15110243 wherein it has been mentioned that differently abled : Orthopedically impaired. It is also seen that the Board has published examination result wherein it has been mentioned that the petitioner has secured 79 marks in Backward Class Community, person with disability- Ortho. The Board issued notification in No.3/2017 dated 09.05.2017 calling for applications for the post of Post Graduate Assistant in various subjects in 2016-2017. According to the petitioner, the Board has provided 3% reservation against total vacancies to physically handicapped categories (2%) of visually impaired and 1% for (OH),



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pursuant to G.O.(Ms.)No.87 dated 17.07.2008 by following 200 roster

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point. Meanwhile, the Government of India has issued orders regarding provision 4% in consonance with Section 34 of the Rights of Persons with Disability Act, 2016. As per G.O.(Ms.)No.21, the reservation was enhanced from 3% to 4%. The Tamil Nadu Association for Rights of All Type of Differently Abled and categories filed a writ petition in W.P.No. 13350 of 2017 challenging the notification of the Board insofar as providing reservation for disabled category. Vide an interim order dated 07.08.2017, this Court has directed the Board to keep 4% of total vacancies reserve for differently-abled persons. The Hon'ble Division Bench of this Court, on 15.12.2017, has issued the following order:-

9.In the light of the above, this Writ Petition is disposed of, by directing the respondents to issue fresh notification for filling up the reservation category of posts and endeavour to complete the entire process within a period of three months from the date of receipt of a copy of this order. The learned counsel appearing for the petitioner, in the course of arguments, expressed another difficulty, in respect of the candidates, who have participated in the earlier selection and secured higher marks, but not accommodated an account of stay granted by the Court. If those, candidates are eligible to apply under the fresh notification, it is open to them to do so, and



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if there are any other individual grievance, then, that can agitated by way of separate proceedings and the present order will not put an embargo on the those candidates/persons, to agitate their rights in the manner known to law. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

7.It is pertinent to mention that the petitioner has filed a writ petition in W.P.No.33973 of 2017 seeking writ of mandamus to direct the Board to consider the appointment of the petitioner in accordance with G.O.(Ms.)No.21, dated 30.05.2017. This Court on 23.02.2018, passed on order by citing the order passed by the Hon'ble Division Bench of this Court in W.P.No.13350 of 2017 dated 15.12.2017, dismissed the said writ petition became infructuous.

8. It is also pertinent to mention that as per direction of the Hon'ble Division Bench dated 15.12.2017, the Board has issued a Notification No.10/2019 dated 12.06.2019. Therefore, the prayer sought for in this writ petition to consider the petitioner for appointment to the post of Post Graduate Assistant in the written examination conducted on 02.07.2017, as per G.O.(Ms.)No.21 dated 30.05.2017, has become infructuous.



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9.In the result, this writ petition is dismissed as infructuous. No

costs.

NCC : Yes / No

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Index : Yes / No

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To

1.The Secretary to Government,
School Education Department,
Secretariat, Chennai.

2.Teachers Recruitment Board,
Represented by its Chairman,
4th Floor, EVK Sampath Maaligai,
DPI Compound, College Road,
Chetpet, Chennai.



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M.JOTHIRAMAN, J.

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