



WEB COPY

WP No.20752 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-03-2026

CORAM

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

WP No. 20752 of 2023

M.Mohamed Jaffer Ali

..Petitioner

Vs

1. The Tamil Nadu Construction Workers,
Welfare Board Represented by
The Secretary,
No.8, Valluvar Kottam High Road,
Nungambakkam,
Chennai- 600 034.

2. The Tamil Nadu Construction Workers
Welfare Board,
Represented by its Chairman,
No.8, Valluvar Kottam High Road,
Nungambakkam,
Chennai- 600 034.

..Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing respondents to issue appointment order to petitioner for the post of Junior Assistant under reservation for BC (Muslim) category as per notification No.2/2018 dated 17.10.2018, by considering his representation dated 18.05.2023.

For Petitioner : Mr.N.Manoharan

For Respondents : Ms.S.Valliammal



ORDER

The present writ petition has been filed for a direction to respondents to issue an order of appointment to petitioner for the post of Junior Assistant under reservation for BC (Muslim) category in terms of Notification No.2/2018 dated 17.10.2018 by considering his representation dated 18.05.2023.

2. Brief facts:

2.1. Petitioner had applied to the post of Junior Assistant under BC (Muslim) category. He was issued with a hall ticket No.23317179 for written examination held on 01.12.2019. Thereafter, first respondent issued a letter dated 07.01.2020 calling upon petitioner to appear for certificate verification followed by a personal interview on 20.01.2020. Petitioner attended interview and his original certificates were verified. Petitioner had secured 60 marks and he has also studied in Tamil Medium and therefore may also be eligible under Persons Studied in Tamil Medium (PSTM) category. Subsequently, first respondent issued Press Release No.85 dated 29.01.2020, stating that written examinations, certificate verification and personal interview which were held stood cancelled due to certain administrative reasons. The above Press Release was challenged before this Court in WP Nos.10667, 10138, 5607 and 5609 of 2020 and this Court, by order dated 24.11.2020 allowed the said writ petitions. The State carried the matter by way of appeals in WA Nos.522, 525, 527 and



949 of 2021. The writ appeals were dismissed vide order dated 30.07.2021, confirming the order of the learned Single Judge.

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2.2. While so, respondents have published a list of candidates selected for appointment to the post of Junior Assistant on 17.08.2021, wherein petitioner's hall ticket was not mentioned. Hence, the present writ petition.

3. It is not in dispute that two posts were reserved for BC (Muslim). The two posts have been filled up by two woman candidates, one bearing Hall Ticket No.31352937, who had scored 69 marks and another bearing Hall Ticket No.01382794, who had secured 59 marks. It may be relevant to note that the one who had scored 59 marks is also a PSTM category candidate. It is also not in dispute that at least 5 candidates who had scored less than 69 marks have been granted appointments under General Turn Category. However, the candidate bearing Hall Ticket No.31352937, after having scored 69 marks was for some reason inadvertently appointed under the BC (Muslim) category. Further, by virtue of her high marks being eligible for appointment under the General category, she would have automatically migrated to the GT category from BC (M) category. However, due to inadvertence, admitted to by respondents, she was granted appointment under the BC (M) category, thereby resulting in petitioner being denied appointment.



4. When this was pointed out, learned counsel for petitioner would also place reliance upon judgment of this Court in the case of *K.R. Shanthi- vs State of Tamil Nadu* reported in 2012 SCC OnLine Mad 545, wherein, it was observed that candidates selected on merit under open quota should not be adjusted against reserved vacancy and *inter se* seniority of candidates selected and appointment in that selection should be only on merit and not on the basis of roster points, and the judgment of the Hon'ble Supreme Court in the case of *State of Tamil Nadu and Others vs K.Shobana and Others* reported in (2021) 4 SCC 686, wherein the above view was affirmed and it was held as under:

“23. The Division Bench vide the impugned order also opined in the same terms and agreed with the interpretation of [Section 27](#) of the Act by further observing that the proviso which contains the word “first” does not have any relation to the offer and placement of such reserved category candidates, including, Most Backward Classes who attain their position by way of merit in the open category/General Turn vacancies.

24. We are in complete agreement with the view taken by the courts below as there really could not have been any cavil to the aforesaid. The principle that such of the reservation category candidates who make it on their own merit have to be adjusted against the general category candidates has not been in doubt or argued in view of the catena of judgments cited aforesaid. In our view, [Section 27\(f\)](#) of the Act cannot be read in a manner, apart from any other reason, to negate this very principle.

25. It has been rightly pointed out by learned counsel for the respondents that the issue arising from seniority of filling the backlog vacancies first was not even urged in the courts below and was sought to be raised for the first time before this Court, and elaborately at that, which plea finally fizzled out, as it was conceded that there is no factual basis for the same.”



5. On thing being pointed out, learned counsel for respondents would submit that appointment of woman candidate bearing Hall Ticket No.31352937, was due to inadvertence that her appointment will be fixed as falling under General Turn Category. It is brought to the notice of this Court that there are about 66 vacancies in the General Turn category, of which only 62 have been filled up, thus even if the candidate bearing Hall ticket No.31352937, who had secured 69 is migrated to General Turn Category, it would not adversely affect any candidate or any employee. Moreover, there is an interim order wherein, there is a direction to keep one post vacant. It was thus submitted that no prejudice would be caused to any of the appointed candidates.

6. In that view of the matter, this Court is inclined to agree with the submissions of learned counsel for petitioner and the same is not seriously disputed by learned counsel for respondents. Therefore, there shall be a direction to respondents that candidate bearing hall ticket No.31352937, who had scored 69 marks, shall migrate to General Turn category and resultantly, if petitioner is entitled to be appointed under the BC (M) category, respondents shall issue order of appointment, within a period of four weeks from the date of receipt of a copy of this order.



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7. Accordingly, the writ petition stands disposed of. No costs.

12-03-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MRN

To

1. The Tamil Nadu Construction Workers,
Welfare Board,
Represented by The Secretary,
No.8, Valluvar Kottam High Road,
Nungambakkam, Chennai- 600 034.
2. The Tamil Nadu Construction Workers,
Welfare Board, Rep By Its Chairman,
No.8, Valluvar Kottam High Road,
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MOHAMMED SHAFFIQ, J.

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