

(2001) 10 MAD CK 0005
In the Madras High Court

Padmavathi

APPELLANT

Vs

State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 08-10-2001

Acts Referred:

Citation : (2001) 3 MLJ 642

Hon'ble Judges : V.S. Sirpurkar, J

Bench : Division Bench

Judgement

V.S. Sirpurkar, J.—This is an unique matter in view of the unusual factual situation. A notification for filling up six vacancies in the post of

Inspector of Fisheries was issued by the Tamil Nadu Public Service Commission (in short "the Commission"). The selection was to be on the basis

of the written examination and oral interview. Out of the six posts, one post was meant for the Scheduled Caste candidates; one post was meant

for the Most Backward Class and Denotified Communities; two posts were for the Backward Class candidates, including one post reserved for

the women amongst them and two posts were for open competition, one post having been reserved for women.

2. After the interviews were over, the following factual position was obtained on the basis of merits;

1. Pradeepkumar 198.0 O.C.

2. Jude Armstrong 196.0 M.B.C.

3. Panchayatha Rana 195.0 M.B.C.

4. Sharmila 188.0 B.C.

5. N.M. Velmurugan 172.5 B.C.

6. Padmavathi 171.0 O.C.

7. Not relevant

8. not relevant

...

14. Renuka 142.) S.C.

15. not relevant

16. Prabhavati 138.0 B.C.

17. not relevant

18. not relevant

3. Now on this basis, ordinarily, if the selections were to be done on the basis of the availability of the posts then, the two toppers were bound to

be considered for the open category in the sense, Pradeepkumar, having topped the list with 198 marks, was bound to be selected while the other

post in the "open category" being meant for the lady candidates was bound to go to Sharmila having scored 188 marks though she actually

belonged to the Backward Class. Out of the two posts reserved for the "Backward Class" candidates, one of them being meant for the lady

candidate, N.M. Velmurugan, the topper amongst the Backward Class candidates, having scored 172 marks, and Prabhavathi, the topper

amongst the lady Backward Class candidates, having scored 138 marks, were bound to be selected against the "Backward Class" quota. In so far

as the "Scheduled Caste" quota is concerned, there is no difficulty because Renuka at No. 14 was the topper and she was bound to be selected

while in so far as the one post reserved for the "Most Backward Class candidates is concerned that post was to go to Jude Armstrong having

scored 198 marks amongst the Most Backward candidates. That should have been the selection. Unfortunately that was not the selection and

instead of N.M. Velmurugan, the candidate at Sr.No. 6 viz., Padmavathi was selected probably because Sharmila was not selected against the

open quota" and was fitted into the vacancy meant for "Backward Class" candidates because of which Velmurugan lost a seat.

4. Now, when we see Rule 22(b) of the Tamil Nadu State and Subordinate Services Rules (in short "the Rules") the position is clear that where the

Backward Class or reserved class candidates have come up on their own merits,

because of their selection in the open category, the quota meant for the "reserved class" candidates by way of reservation should not suffer. That precisely, has happened in this case. Here, because of the selection of Sharmila not against the "open category" but against the "Backward Class" quota, obviously the Backward Class candidates have suffered. Ordinarily, there were bound to be two candidates from "Backward Class" category but because Sharmila, a Backward Class candidate, was topper amongst the lady candidates, she was bound to be fitted against the one vacancy meant for the lady-topper in the "open category". That would have been the correct procedure of selection. Unfortunately, that was not done and, therefore, Velmurugan came up before the Tribunal. The Tribunal has allowed the application and has followed the course that we have indicated above. We do not find anything erroneous in the order of the Tribunal.

5. The learned Counsel, however, very earnestly argued that reading the Rule 22(c) of the Rules, the selections have been correctly made. We are afraid, we cannot agree with the interpretation which is tried to be put on that rule, which is as under:

(c) Selection for appointment under this rule shall be made in the order of rotation specified in Schedule III to this part.

The learned Counsel says, therefore, the selection should have been made taking into consideration the rotation and in this case, since the roster started from the "Backward Class", the authorities have correctly placed Sharmila against the "Backward Class" quota.

6. We do not agree such interpretation would completely breach not only Rule 22(b) but also the general principle laid down by the Apex Court that where the reserved class candidates, on their own merit, come up, they should be adjusted against the "open category" and that having been done, the quota meant for the "reserved class" should not be affected. In our opinion, the order of the Tribunal is correct and needs no interference.

7. The learned Counsel, however, pointed out that Padmavathi, petitioner herein, has not only joined but passed all the Departmental examination and has been regularised also. Learned Counsel says that it is not her fault that she has now lost a further chance to appear and compete for the

Government posts because, by now, she must have become over-aged for Government posts. She has not had any hand in the selection being

bestowed upon her by the Commission. We agree, under circumstances, we can only recommend that she should make a representation to the

Government pointing out the unique set of facts for redressal which could be given, if necessary, by creating a supernumerary post. The

representation shall be made as early as possible and shall be decided upon within two months from its receipt by the Government.

8. With this, we dismiss the writ petition. It is hoped that the order of the Tribunal shall be implemented as soon as possible.