

(2009) 03 MAD CK 0179

In the Madras High Court

Case No : Writ Petition (MD) No. 84 of 2009 and M.P. (MD) No. 1 of 2008

R.K. Jeeja

APPELLANT

Vs

The Director, Teacher Recruitment Board

RESPONDENT

Date of Decision : 11-03-2009

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2009) 03 MAD CK 0179

Hon'ble Judges : S. Manikumar, J

Bench : Single Bench

Advocate : Party in Person, for the Appellant; K. Balasubramanian, Additional Government Pleader, for the Respondent

Judgement

S. Manikumar, J.—The petitioner has sought for a Mandamus directing the respondent to issue appointment order to her for the post of

B.T. Assistant, as per ex-serviceman quota with employment registration seniority 2007-2008 and 2008-2009 based on the petitioner

representation dated 30.12.2008 and for further orders.

2. By order in M.P(MD). No. 1 of 2009, dated 23.01.2009, this Court has passed an order directing the respondents to keep one post of B.T.

Assistant vacant.

3. It is the case of the petitioner that her father was an ex-serviceman. He had worked in the Indian Army for more than 22 years and his

regimental number was 1331788. After completion of her M.phil (Physics) in Manonmanium Sundaranar University and B.Ed. Course, she had

registered her name in employment exchange, Nagercoil, on 29.06.2007, with registration No. Emp.Reg.No.1999F13049.

4. The petitioner has further submitted that by proceedings, dated 16.09.2008,

the respondent directed her to produce the certificates for verification for appointment to the post of B.T. Assistant at S.T.C. Higher Secondary School, Palayamkottai. Based on the directions, the petitioner produced the certificates for verification on 23.09.2008. On satisfying with the educational qualifications prescribed for the above said post, she was selected on 26.12.2008 and that a selection list was also published in the Internet on the same day. Her seniority was fixed based on the seniority in the ex-serviceman quota.

5. Subsequently, by paper notification, the selected candidates were directed to attend the counseling on 30.12.2008. Accordingly, she attended the counseling also. But, the respondent did not issue any appointment order. Therefore, the petitioner was constrained to approach the respondent in person. She was orally informed that subsequent to her marriage, she has lost her status of dependent of ex-serviceman and therefore, she is not eligible for appointment to the post reserved against ex-serviceman quota. In these circumstances, the petitioner has sought for the relief as stated supra.

5. The petitioner in person, relying on a judgment of this Court, dated 19.12.2007 made in W.P. No. 9246 of 2006, submitted that the action of the respondent in with-holding her appointment to the post of B.T. Assistant, on the ground that she has lost the benefits provided to the children of ex-serviceman is erroneous. She further submitted that when sons are provided with employment on the basis of the above said reservation, denying the benefits to a married daughter would amount to violation of Article 14 of the Constitution of India.

Heard Mr. K. Balasubramanian, the learned Additional Government Pleader for the respondent. He submitted that the facts of the case in the unreported judgment and the case on hand are different, as in the former case, there was an order of rejection of her candidature and therefore, the judgment is not applicable to the present case.

6. Inviting the attention of this Court, the averments made in paragraph 6 of the affidavit filed in support of the present Writ Petition, he submitted that the case of the petitioner has not been rejected and therefore, a direction may be issued to the respondent to dispose of her representation dated 30.12.2008 in accordance with law within a time frame fixed by this Court.

7. Perusal of the certificate, dated 15.11.2007, enclosed at page No. 1 of the typed set papers shows that the Assistant Director of Ex-

servicemen's Welfare, District Soldier's Sailors' and Airmen's Board, Kanyakumari District, Nagercoil, has issued a certificate to the petitioner

that she is a dependent on the ex-serviceman, i.e., her father.

8. In the Writ Petition No. 9246 of 2006 relied on by the party in person, the petitioner therein has challenged an order of rejection passed by the

third respondent therein, rejecting her case on the ground that the concession of priority under ex-serviceman quota will not be given to a married

daughter. At paragraph No. 2 of the counter affidavit filed to the above Writ Petition, it has been stated that as the petitioner is a married woman,

she has lost her status from her birth family and that she has acquired the status of the newly married home and therefore, ceases to be dependent

of the ex-serviceman. As now being a married woman, the petitioner cannot seek any reservation based quota, appointment from the Government.

9. While adjudicating the claim of the petitioner therein, (M.V. Radha, W.P. No. 9246 of 2006) as to whether a married daughter is also eligible to

avail the concession of priority under the ex-serviceman quota, a learned Single Judge in paragraphs 8 and 9 has held as follows:

8. In any event, getting married is not a criteria to deny the priority in employment. The same yardstick is not applied in the case of a son.

Therefore, it is a clear case of discrimination and violative of Article 14 of the Constitution of India. The Hindu law does not talk about the

dependent status being changed after marriage of a woman. The ground taken by the respondents to deny employment to the petitioner though

was selected, is not valid and contrary to law.

9. In the above circumstances, the Writ Petition stands allowed and the respondents are directed to provide the petitioner the post of pharmacist

within a period of four weeks from the date of receipt of a copy of this order . However, there will be no order as to costs.

10. Upon perusal of the order stated supra, I do not see any factual difference, excepting that in the former case, there is an order of rejection.

Perusal of the selection list of B.T. Assistants for the (Physics subject) based on employment registration seniority 2007-2008 and 2008-2009

enclosed at page 8 of the typed set papers shows that though the petitioner

figured at Sl. No. 413 of the said list, issuance of the appointment order has been withheld. As there is similarity in the facts of the above-said unreported judgment, the petitioner is also entitled to the benefits of concession of priority under the ex-serviceman quota. Therefore, the Director, Teachers Recruitment Board, Chennai, the respondent herein, is directed to dispose of her representation, dated 30.12.2008, in terms of the order made in W.P. No. 9246 of 2007, dated 19.12.2007. The petitioner is also at liberty to send a fresh representation enclosing a copy of the order made in the present Writ Petition to the respondent and on receipt of the same, the respondent shall give an opportunity of hearing, if any further clarification is required and pass appropriate orders in accordance with law, within a period of two weeks from the date of receipt of a copy of this order. As the name of the petitioner already figures in the selection list, after verification of her certificates, the respondent shall issue suitable orders, within the time frame. The Writ Petition stands disposed of accordingly. Consequently, the connected M.P. is closed. No costs.