
(2009) 04 MAD CK 0234

In the Madras High Court

Case No : Writ Petition No. 31151 of 2006

S. Pugazendi and Others

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 06-04-2009

Acts Referred:

Constitution of India, 1950 — Article 15(3)

Tamil Nadu State and Subordinate Services Rules, 1955 — Rule 21

Citation : (2009) 04 MAD CK 0234

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : R. Arumugam, for the Appellant; P. Gurunathan, GA, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—The five petitioners moved the Tribunal with O.A. No. 5336 of 1997, seeking to challenge G.O.Ms. No. 137, Department

of School Education issued by the first respondent and after setting aside the same, to implement 1:3 ratio as contained in terms of letter No. 580,

dated 20.08.1996 with consequent direction to select and appoint the petitioners as Secondary Grade Teachers on the basis of the registration

seniority in the employment exchange.

2. On notice from the Tribunal, a reply affidavit, dated 18.12.1997 was filed on behalf of the third respondent.

3. In view of the abolition of the Tribunal, the matter stood transferred to this Court and was renumbered as W.P. No. 31151 of 2006.

4. It is seen from the records that the Government issued G.O.Ms. No. 447, Education, Science and Technology, dated 16.7.1996, directing the

recruitment of Secondary Grade Teachers to be done on the basis of the employment exchange seniority. In that G.O., in paragraph 6, it was

stated that from I standard to V standard classes, the vacancies shall be filled up only with the women teachers and only when such teachers are

not available, men teachers can be appointed.

5. Subsequently, a writ petition was filed being W.P. No. 12221 of 1996 before this Court, challenging the exclusive reservation in favour of the

women teachers in the Elementary Schools. This Court, by an order, dated 20.09.1996, dismissed the writ petition. Thereafter, the Tamil Nadu

Unemployed Secondary Grade Teachers Association filed an appeal before the Supreme Court, being Civil Appeal No. 14560 of 1996. The

Supreme Court granted stay in respect of exclusive reservation in favour of women, but however, allowed the previous policy to continue.

6. The Government issued a letter No. 580, dated 20.08.1996. It was in that order, it was stated that among the Secondary Grade Teachers, male

and female ratio has to be filled up as 1:3. But, however, after the interim order passed by the Supreme Court, the Government issued G.O.Ms.

No. 137, dated 26.3.1997, making some interim arrangements. It was stated that there shall be 30% reservation for women from classes I to VIII

and accordingly, Rule 21(b) of the General Rules for the Tamil Nadu State and Subordinate Services was to be followed in the matter of filling up

the post of Secondary Grade Assistant. Though 30% seats were reserved for women teachers, yet there is no prohibition for them to contest in the

other general seats. It is this G.O., which is under challenge by the petitioners.

7. In the reply affidavit, it was stated that after an interim order passed by the Supreme Court, the employment exchange seniority list is followed.

In page No. 2 of the reply affidavit, it has been averred as follows:

There is no restriction for the appointment of male teachers as alleged by petitioners since only 30% reservation has been made for women. The

contention of the applicants that Government has completely denied the opportunities of male candidates is not correct and not based on facts

since 70% of the vacancies are meant both for Men and Women.

8. The petitioners have raised a ground that 30% reservation will cause hardship to men teachers and end result, all the seats will be taken care of

by the women teachers and this exclusive appointment was not proper. The

contention raised regarding gender bias cannot be accepted, as the

State Government has power to fix reservation in any public employment, including in the Schools.

9. The Supreme Court in its judgment in Govt. of Andhra Pradesh Vs. P.B. Vijaykumar and another, had upheld the validity of such reservation. In

fact, in its earlier judgment in Toguru Sudhakar Reddy and another Vs. The Govt. of Andhra Pradesh and others, , the Supreme Court had even

taken the stand that reservation beyond 50% was permissible under Article 15(3) of the Constitution.

10. In the light of the same, this writ petition stands dismissed. However, there shall be no order as to costs.