IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.09.2025

PRONOUNCED ON : 26.09.2025

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.15235 of 2019
and WMP.No15225 of 2019

T.Gangeswari .. petitioner

vs

1.The State rep by
The Secretary to Government
School Education Department
Fort St.George, Chennai – 600009.

2.The Member Secretary
Teachers Recruitment Board
EVK Sampath Buildings
DPI Compound
College Road, Chennai – 600 006.

3.The Commissioner
Employment and Training
Commissioner Office
Guindy, Chennai – 600092.

4.M.K.Ravichandran … Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified mandamus to call for the records

pertaining to the order passed by the 2nd respondent in Na.Ka.No.8655/L2/2018 dated 25.03.2019 and quash the same and direct the respondents to cancel the appointment of the 4th respondent and to appoint the petitioner from the date on which the 4th respondent was appointed as BT Assistant – Tamil and to confer all the consequential benefits.

For Petitioner : Mr.V.Sivalingam
for M/s.C.S.Associates

For Respondents : M/s.A.Bakkiyalakshmi, GA for R1.
Mr.C.Kathiravan, SC for R2
M/s.V.Yamunadevi, Spl.GP for R3.

O R D E R

Heard the learned counsel for the petitioner and the learned Government Advocate for R1, learned Standing counsel for R2 and the learned Special Government Pleader for R3 and perused the records.

2. The case of the petitioner in brief is that she passed B.Lit in the year 1987 and acquired B.Ed degree in 1991 and registered herself with Employment Exchange on 06.11.1992; that as per the Government Orders whenever vacancy arises for appointing BT Assistant, the said vacancy is to be filled up according to the employment exchange seniority; that when her turn for being selected as BT Assistant came, the respondents instead of

appointing her in the said vacancy have appointed the 4th respondent to the said post, even though, the said respondent is bestow her in employment exchange seniority, having registered his name only on 26.04.1993.

3. It is further case of the petitioner that since, the respondents have appointed the 4th respondent who is junior to her in employment exchange seniority, she had submitted a representation dated 30.10.2012 specifically pleading the aforesaid fact and since, no order has been passed thereon, the petitioner approached this Court by filing the writ petition in WP.No.2765 of 2013, wherein the respondents by the Counter affidavit stated that the employment exchange registration of 4th respondent to be 26.04.1992, as such he being senior to the petitioner, and thus having been appointed in the said vacancy; and that based on the said statement, this Court had dismissed the writ petition on 28.07.2017.

4. Petitioner further contended that aggrieved by the aforesaid order of dismissal, the petitioner had filed writ appeal vide WA.No.1826 of 2018, wherein the Division Bench of this Court on the respondents making a statement of she being selected as Graduate Assistant on 31.01.2012 had directed the respondents 2 and 3 to verify as to whether the said order of

appointment being communicated to her and she having not accepted the said appointment, if so reject the case of the petitioner/appellant. Further, this Court also held that if no such selection is made and communicated to the petitioner at the relevant point of time, directed respondents 2 and 3 to consider the petitioner's representation dated 30.10.2012 and do the needful in accordance with the law within a period of three months from the date of receipt of a copy of the order.

5. The petitioner contends that after this Court passing the order in writ appeal on 27.08.2018 giving three months time to the respondents, the respondents did not pass any order on the petitioner's representation and for the said reason she had submitted representation dated 16.11.2018, followed up by an Advocate notice dated 08.01.2019.

6. It is the further case of the petitioner that though the respondents acknowledged the receipt of the aforesaid representation and Advocate notice, did not pass any orders forcing the petitioner to approach this Court by filing contempt petition in Cont.P.No.431 of 2019; and that during the pendency of the aforesaid contempt petition the respondents have passed the order rejecting the claim made by the petitioner under representation dated

30.10.2012, claiming that the 4th respondent registered his name in employment exchange on 26.04.1992, while the petitioner has registered her name on 06.11.1992, being the reason for her not being selected to the B.T.Assistant vacancy.

7. It is the further case of the petitioner that in response to RTI application filed by her seeking information with regard to 4th respondent registration with employment exchange, the District Employment Exchange Officer, Ariyalur, furnished information, whereby it is claimed that the 4th respondent has registered himself with the employment exchange on passing of B.Ed only on 26.04.1993. Thus, the petitioner contends that the respondents have deliberately manipulated the records correcting the date of registration of the 4th respondent with the employment exchange to get order of this Court and to favour the 4th respondent.

8. Further, the petitioner contends that the respondents have been adopting different stands at different point of time, as at an earlier point of time when the petitioner had approached this Court by filing writ petition vide WP.No.2765 of 2013 and writ appeal in WA.No.1826 of 2018, it was claimed that the petitioner was offered appointment as Graduate Assistant

by the Teachers Recruitment Board on 28.03.2012 and she did not avail the said opportunity.

9. It is further contended that upon her denial of being issued with any appointment order, this Court in writ appeal directed the respondents 2 and 3 to verify as to whether the said order of appointment was communicated to her and she had refused to accept the same.

10. It is also further contended that in the earlier writ petition filed by her vide W.P.No.2765 of 2013, the 3rd respondent therein viz., the Commissioner, Employment and Training, Commissioner Office, Guindy, Chennai by his counter affidavit had claimed of she being offered appointment by the Teachers Recruitment Board on 28.03.2012 and she did not avail the said appointment, due to which the respondents appointed the 4th respondent according to the seniority on the basis of his date of registration with the employment exchange being 26.04.1992.

11. The petitioner contends that if the claim of the respondent of the 4th respondent being registered with employment exchange on 26.04.1992 and thus, being senior to petitioner is to be accepted as a correct statement;

the statement made to the Court of the petitioner being offered the appointment of Graduate Assistant on 28.03.2012 and she having not accepted the same and thus, the said vacancy of B.T.Assistant being filled up by the 4th respondent would be incorrect statement, as going by the date of registration with the employment exchange, as claimed by the 2nd respondent, the 4th respondent would be senior to the petitioner and would get the 1st preference over the petitioner rather than he being treated below the petitioner in Employment Exchange Seniority. Thus, the aforesaid stand of the respondents itself falsifies their claim. Thus, the entire selection process had done by manipulating the records (i.e,) by altering the date of registration of the 4th respondent with the employment exchange to get over the order of this Court and to favour the 4th respondent. Thus, the impugned order dated 25.03.2019 issued under the signature of the 2nd respondent is liable to be quashed.

12. Counter affidavit on behalf of the third respondent is filed.

13. The 3rd respondent by the counter affidavit filed while not disputing the claim of the petitioner of the 4th respondent Employment Exchange registration date being 26.04.1993, however claimed that the 4th

respondent was well within the ambit of selection with regard to cut off date arrived for backlog vacancies, as the 4th respondent was not nominated along with the petitioner and was nominated later against the backlog vacancy received from second respondent vide letter dated 28.03.2012, three years after sponsoring the petitioner with nomination ID.506BCGNP.

14. The respondent by the counter further claimed that they are not aware of this Court order in WA.No.1826 of 2018 dated 27.08.2018, wherein this Court had directed the respondents 2 and 3 therein to consider the application of the petitioner and to do the needful and accordingly, the 3rd respondent had sent the order copy to the 2nd respondent on 20.11.2018 requesting them to take necessary action as they are the employer and the order can be complied with only by them.

15. By the counter affidavit, it is further claimed that the 4th respondent had been appointed only against the backlog vacancy notified by the 2nd respondent vide letter dated 28.03.2012, three years after sponsoring the petitioner and thus, it is well within the ambit of selection of the cut off date for back log vacancy.

16. The respondent by enclosing the copy of the counter affidavit filed by them along with the material papers in writ petition in WP.No.2736 of 2018 to the counter affidavit filed in this writ petition, contended that since, the vacancy to be filled up is BC (Gen) non priority, the cut off date was notified as 16.02.1994 and since, the 4th respondent is well within the cut off date against the notified backlog vacancy, the 4th respondent has been selected.

17. Though no counter affidavit is filed on behalf of the 2nd respondent is filed, the counsel appearing on behalf of the 2nd respondent submitted that since, the employment exchange seniority of the 4th respondent is mentioned as 26.04.1992, he was selected against the vacancy of BT Assistant excluding the petitioner, as such the action of the second respondent in excluding the petitioner who is junior to the 4th respondent does not call for any interference.

18. The 4th respondent despite entering appearance through counsel, no counter affidavit has been filed nor the counsel appeared before the Court today to advance the arguments.

19. In the aforesaid back drop, this court proceeded to consider the respective contentions urged by the counsel appearing for the parties.

20. The short point that falls for consideration in this writ petition is whether the 2nd respondent could have excluded the petitioner from the zone of consideration and consider the 4th respondent for appointing him to the post of BT-Assistant reserved for BC(Gen), pursuant to the vacancy notified on 28.03.2012.

21. Though, the second respondent had categorically claimed that the selection of the 4th respondent is on account of his Employment Exchange seniority, the 3rd respondent who is the competent authority to certify the actual date of registration with the employment exchange, having stated that the registration of the 4th respondent to be on 26.04.1993, the 2nd respondent could not have considered the registration one year prior to the actual date of registration (i.e, 26.04.1992) thereby placing the 4th respondent in seniority over the petitioner, who was registered with the employment exchange on 06.11.1992. If the actual date of registration of the 4th respondent with the employment exchange is taken into consideration, the 4th respondent would be junior to the petitioner by nearly six months. The

2nd respondent instead of placing the 4th respondent as junior to the petitioner, however chose to place the 4th respondent as senior to the petitioner by six months, and appointed him to the post of BT Assistant over looking the petitioner's seniority. The fact of 2nd respondent not filing the counter, justifying their stand and on the other hand the 3rd respondent by the counter affidavit seeking to justify the action of the 2nd respondent in appointing the 4th respondent claiming that the appointment of 4th respondent is against the backlog vacancy notified by the 2nd respondent vide letter dated 28.03.2012, three years after sponsoring the petitioner's name, would not by itself confer any right on the respondent to exclude the name of the petitioner, unless and until it is shown that the petitioner having either been selected for some employment or on being offered employment having rejected to take up the said employment.

22. It is for this reason, the Division Bench of this Court in WA.No.1826 of 2018 had specifically noted the submission made by the respondent, of the petitioner being offered employment earlier, directed the respondent to verify as to whether such appointment having been communicated to the petitioner and petitioner having refused to join the aforesaid appointment. However, before this Court to substantiate the

aforesaid submission made before the Division Bench of this Court in order to deny the claim of the petitioner. On the other hand, the 3rd respondent sought to shirk from its responsibility claiming that they have addressed a communication to the 2nd respondent to look into the matter and the 2nd respondent on the other hand by remaining silent on this aspect and also having not filed any counter affidavit, would only go to show that the claim made by them earlier before the Division Bench of this Court was only to get away from this Court examining the matter in detail and to get the matter closed by making some statement which is not backed by any evidence.

23. If only the statement made before the Division Bench of this Court was correct, the respondent ought to have put the said fact as ground with evidence while rejecting the claim of the petitioner by the impugned order. Instead the respondent chose altogether a different ground to deny the claim of the petitioner. This only goes to show that the stand taken by the respondent to deny the claim of the petitioner is not genuine but is invented to suit their convenience, which in the considered view of this Court cannot be countenanced.

24. The 2nd respondent being a State ought to conduct itself in a fair and transparent manner by affording opportunity to all the eligible candidates to fulfil aspirations of securing a Government job, instead of showing favouritism or bias in favour of any particular candidate by adopting *modus operandi* as resorted to by the 2nd respondent by altering the year of registration of the 4th respondent with employment exchange, advancing by an year, would only go to show that undue favouritism has been shown to the 4th respondent in getting him selected to the post of BT Assistant as against the eligible candidate including the petitioner.

25. Further it is to be noted with regard to the cut off dates, each of the respondents took a different stand. The second respondent in the counter affidavit filed in WP.No.2765 of 2013 had stated that in respect of the backlog vacancy 2010-2011 last candidate selected in BC (Grl) and BC (W) communal turn for BT Assistant (Tamil) are 30.09.1992 and 29.09.1992 respectively.

26. The 3rd respondent by the counter affidavit filed in the said writ petition had claimed that cut off date for BC (Grl) non priority to be 16.02.1994. After this Court passing the order in WA.No.1826 of 2018

dated 27.08.2018 directing the respondents to consider the representation of the petitioner dated 30.10.2012, the respondents in the impugned order had come up with new cut off date, wherein it has been mentioned under :-

> *"In the case filed by the petitioner, the Teacher Recruitment Board examined the employment registrations for the year 2010-2011 on the basis of seniority, with respect to the cut-off dates for candidates selected under the Backward Class category for the post of B.T. Assistant (Tamil). According to the records, only those registered with the Employment Exchange up to the following dates were selected: BC (General) - 08.09.1992, BC (Women) - 14.09.1992, GT (General) - 02.09.1992, and GT (Women) - 11.09.1992."*

27. The respondents on the basis of the aforesaid cut off date, claimed that since, the employment exchange seniority of the petitioner is dated 06.11.1992 she would not fall within the zone of consideration, while the 4th respondent whose date of registration with the employment exchange is stated as 26.04.1992 eligible to be selected, it is to be noted that the claim of the 2nd respondent by the impugned order being contrary to the actual date of registration of the 4th respondent with the employment exchange as

indicated by the competent authority i.e., 3rd respondent, by its counter affidavit, the impugned order rejecting the representation of the petitioner claiming the action of the 2nd respondent in appointing the 4th respondent overlooking the seniority of petitioner cannot be held to be valid, for the reason the 2nd respondent having varied their stand from time to time to suit their convenience.

28. The Hon'ble Apex Court in the case of ***State of Rajasthan vs.Indraj Singh Etc*** reported in **2025 SCC Online SC 518**, it is held in paragraph No.10 of the judgment as follows:

> "10. *In India, the reality is that there are far more takers of Government jobs than there are jobs available. Be that as it may, each job which has a clearly delineated entry process - with prescribed examination and/or interview process, has only to be filled in accordance thereof. Absolute scrupulousness in the process being followed instills and further rejuvenates the faith of the public in the fact that those who are truly deserving of the positions, are the ones who have deservedly been installed to such positions. Each act, such as the one allegedly committed by the respondents represent possible chinks in the faith of the people in the public administration and executive."*

29. Thus, this Court has no hesitation to hold that the entire selection process followed to by the 2nd respondent in selecting the candidate for the post of BT Assistant, smacks of transparency and that the 2nd respondent had acted in utter disregard to the fairness which is required to be exhibited by 2nd respondent while dealing with public appointments.

30. Accordingly, this Court is of the view that the claim of the respondent of the selection process having been held in accordance with the procedure cannot be accepted as valid claim for it to receive stamp of approval from this Court.

31. In view of the above, this writ petition is allowed, the impugned proceedings dated 25.03.2019 by which claim of the petitioner is rejected, is set aside and the respondents 1 to 3 are directed to appoint the petitioner to the post of B.T.Assistant with effect from the date when the 4th respondent is appointed to the said vacancy. No order as to costs. Consequently, connected miscellaneous petition is closed.

26.09.2025

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16/18

Speaking order / Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No

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T. VINOD KUMAR, J.

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Order in

W.P.No.15235 of 2019

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