

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.370 of 2015
and
M.P.No.1 of 2015

1.Teaches Recruitment Board,
D.P.I. Complex,
College Road,
Chennai-600 006.
2.The Director of School Education,
DPI Complex,
College Road,
Chennai-600 006. .. Appellants/Respondents
Vs.
M.Stanly Parnapas ... Respondent/Petitioner

This writ appeal is preferred under Clause 15 of the Letters Patent against the order of this court dated 25.6.2014 made in W.P.No.10181 of 2014. Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in Na.Ka.No.2508/A2/2014 dated 13.03.2014 and to quash the same and consequently direct the respondents to select and appoint the petitioner to the post of B.T. Assistant [Social Science].

For Appellants : Mr.K.Karthikeyan,GA
For Respondent : M/s.Dakshayani Reddy

JUDGMENT

(Judgment of the court was made by SATISH K. AGNIHOTRI, J.)

The instant intra-court appeal arises from the order dated 25.06.2014 passed in W.P.No.10181 of 2014.

2. The facts in brief relevant for adjudication are that the writ petitioner / respondent herein (hereinafter referred to as "petitioner"), after having passed Secondary School Leave Certificate (SSLC) in April, 1998, joined three years Diploma course in

Electrical and Electronics Engineering in the year 1998, which he ought to have completed in the year 2001. However, it appears that he could not pass certain papers, which were cleared only in January, 2009 and accordingly, completed the diploma course.

3. Indisputably, after completion of three years diploma course, the petitioner joined B.A in History, which he had completed in December, 2009. Thereafter, he obtained B.Ed degree in May, 2011. On the basis of his three years Diploma certificate and graduation in History, he participated in the selection process for the post of Graduate Assistant for the year 2011-12 in History subject conducted by the first appellant/respondent therein. The candidature of the petitioner was rejected on the ground that he had obtained diploma course and graduation in History simultaneously, which is impermissible under the provisions of law.

4. A representation was made by the petitioner to allow his candidature for appointment, which was rejected by order dated 13.3.2014 on the ground that the petitioner had pursued diploma course as well as graduation simultaneously as he had completed diploma course in January, 2009 and also obtained graduation degree in December, 2009. It was further stated that the petitioner had obtained graduation degree from open university without having plus 2 after SSLC. Thus, the degree was not valid and he was not eligible for appointment. The petitioner has come up with the writ petition, questioning the legality and propriety of the said communication dated 13.3.2014.

5. The petitioner has averred that he had completed three years diploma course in 2001, but he could not obtain the certificate as he could not clear some papers, which he had completed in 2009 and accordingly, he was granted diploma certificate. It was further submitted that after having undergone three years diploma course, which came to an end in 2001, the petitioner had undertaken B.A degree course through open university and obtained degree in December, 2009. Thus, both courses were not pursued simultaneously, but one after another. Obtaining the degree certificate in 2009 cannot be treated as the degree he had obtained along with the diploma course.

6. The learned Single Judge, after having heard the parties and also examined the case from all angles, came to the conclusion that the petitioner had joined diploma course in 1998 and completed the same in 2001, but he failed in final examination. Again he appeared in the examination, which was conducted in January, 2009 and completed the arrear papers and got the certificate. It was further held that the petitioner obtained graduation degree thereafter from the open university, after completion of three years diploma course in 2001. Thus, it cannot be held that the said diploma and degree courses were pursued together and the diploma certificate and degree

were obtained simultaneously. On the question of equivalence, relying on G.O.Ms.No.242 dated 18.12.2012, it was held that the three years diploma certificate is equivalent to higher secondary course, which is required after SSLC and before three years graduation under the aforesaid G.O.

7. We have examined the case in detail and also considered the submissions of the learned counsel for the parties.

8. According to the learned Government Advocate, the petitioner had not obtained graduation after having completed 10+2 stream or 10+ three years diploma. Thus, under the said circular dated 18.12.2012, the petitioner is not eligible to be considered for appointment. The learned counsel further relied on a decision of the division bench of this Court in The Chairman, Teachers Recruitment Board, Chennai and another Vs. V.Kanimozhi, dated 6.8.2014, wherein it has been held that the degree obtained through open university without indicating the higher secondary course of duration of two years is not a valid graduation degree for the purpose of appointment as teachers.

9. The facts in the case on hand are different. There is no controversy on the issue that the said G.O dated 18.12.2012 clearly provides that three years diploma course is equivalent to the plus 2 higher secondary course. Thus, obtaining graduation degree after completion of SSLC plus three years diploma course from the open university is a valid graduation degree for the purpose of appointment.

10. In the instant case, the petitioner had joined three years diploma course much before obtaining three years degree course from the open university. There is no dispute that he could not obtain the certificate on completing the final examination within three years. However, both courses were pursued separately one after another. Thus, on the ground that some papers were cleared later on in the diploma course, it cannot be held that the graduation degree was obtained along with diploma course.

11. In view of the foregoing, we do not find any infirmity or illegality in the conclusion and the order passed by the learned Single Judge, warranting interference. Accordingly, the writ appeal is dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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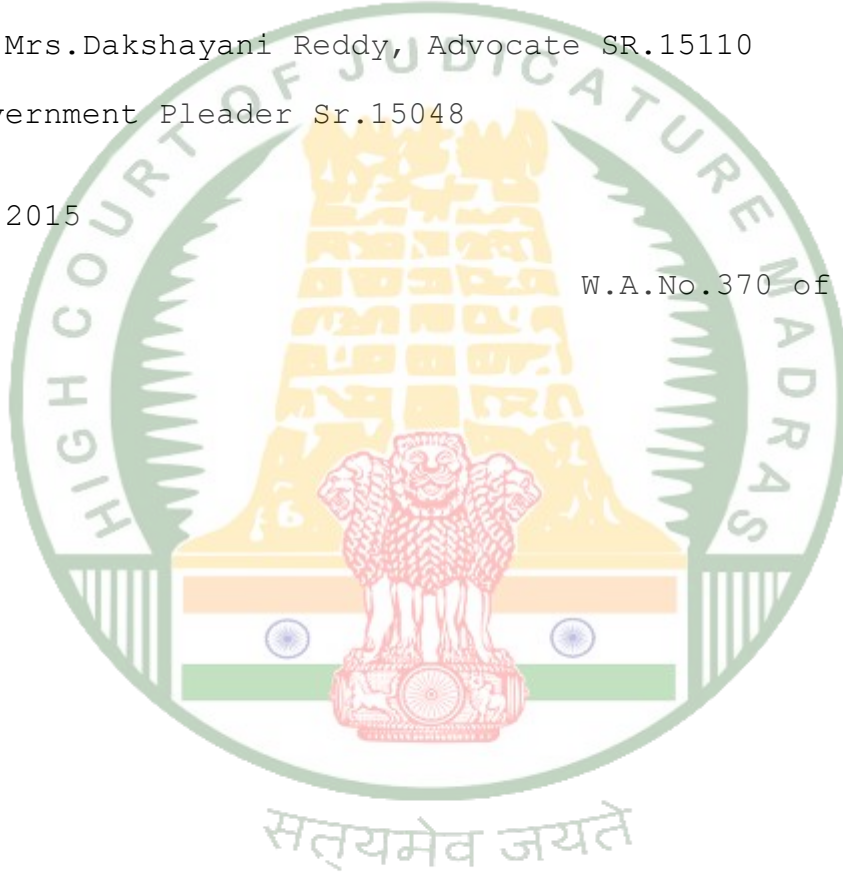
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+ 1 cc to Mrs.Dakshayani Reddy, Advocate SR.15110

+ 1 cc Government Pleader Sr.15048

UG(CO)
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