



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.(MD)No.4037 of 2015

and M.P.(MD) Nos. 1 and 2 of 2015

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The Correspondent

St.Joseph's College Higher Secondary School,
Tiruchirappalli District - 620 002.

... Petitioner

Vs.

1.The Director of School Education,
College Road, Chennai - 600 006.

2.The Chief Educational Officer,
Tiruchirappalli,
Tiruchirappalli District.

3.The District Educational Officer,
Tiruchirappalli,
Tiruchirappalli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the third respondent District Educational Officer in O.Mu.No.4197/A2/ 2014 dated 15.12.2014, quash the same and further direct the third respondent District Educational Officer to approve forthwith the appointment of Rev.Fr.A.Simonraj as PG Assistant in History in the petitioner's school namely, St.Joseph's College Higher Secondary School, Tiruchirappalli, w.e.f 11.06.2013 and disburse the grant-in-aid towards his salary and allowances w.e.f the said date with all attendant benefits and pass such further or other suitable Order/Orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner ... Mr.Isaac Mohanlal

For Respondents... Mr.Aayiram K.Selvakumar
Government Advocate

O R D E R

This Writ Petition has been filed by the Correspondent of St.Joseph's College Higher Secondary School, Tiruchirappalli, challenging the impugned order passed by the District Educational Officer, Trichirappalli, in O.Mu.No.4197/A2/2014 dated 15.12.2014 in and by which, the third respondent has decided that the Bachelors degree in History obtained by the petitioner in single sitting cannot be construed as requisite qualification. The bachelors decree in History obtained by Reverential Father A.Simonraj S.J cannot be construed to be a requisite qualification for appointment of P.G. Assistant (History) in the petitioner school.

<https://hcservices.ecourts.gov.in/hcservices/>

2.Heard the learned counsel appearing for the petitioner school and the learned Government Advocate appearing for the respondents.

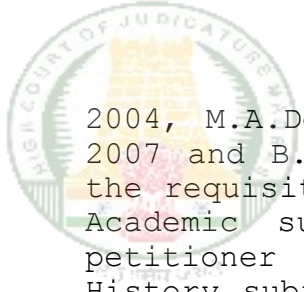


3. Assailing the correctness of the impugned order, the learned counsel appearing for the petitioner would submit that one post of P.G. Assistant (History) had fallen vacant on 11.06.2013 due to the retirement of then incumbent Bro.M.Devadoss, S.J on 31.05.2013 and the petitioner management appointed the Rev. Fr. A.Simon Raj, S.J as P.G. Assistant (History) on 11.06.2013. Since the said Rev.Fr.A.Simonraj possessed the prescribed qualification of B.A.(Economics) from Arulanandar College affiliated to Madurai Kamaraj University in the year 1987 and B.A. in History (single sitting) from the Madurai Kamaraj University in the year 2004, M.A.Degree in History from Madurai Kamaraj University in the year 2007 and B.Ed degree from the University of Calcutta in 2003, after his appointment, the District Educational Officer, Devakottai in his proceeding in Oo.Mu.NO.7904/A2/2006 dated Nil.03.2007 has approved the appointment of the petitioner as B.T. Assistant (History) at De Britto Higher Secondary School at Devakkotttai on 03.01.2005. Thereafter he was transferred to St. Antony's Higher Secondary School Alavanthankulam in the year 2009 and the same was also approved by the District Educational Officer, Tirunelveli in his proceedings in Oo.MU.No.4515/a2/09 dated Nil.08.2009. Continuously the said teacher was receiving his periodic increments and incentives. In the meanwhile, due to inevitable need for P.G. Assistant (History) in St.Joseph's College Higher Secondary School, Trichirappalli, the said Rev.Fr.A.Simon Raj was transferred and posted as P.G. Assistant in History in the vacancy that had taken place on account of retirement of the incumbent of Bro.M.Devadoss S.J with effect from 11.06.2013 and only after his appointment a proposal was sent to the District Educational Officer, Tiruchirappalli-the third respondent herein on 01.07.2013 and a request was made to disburse retirement benefits towards salary. But, there was no reply.

4. Subsequently, the third respondent returned the proposal directing to enclose the yearly mark statements of the said Simon Raj in B.A. Economics and B.A. History vide proceeding in Na.Ka.4799/Aa1/2014 dated Nil.4.2014. In response to the same, the petitioner school re-submitted the proposal with all the mark statements on 23.05.2014. Again, the third respondent returned the proposal stating that since the litigation in relation to Double Degree was pending, no action could be taken. When the third respondent has refused to give approval of the appoint of the said teacher, the petitioner school was constrained to come to this Court by this Writ Petition.

5. Continuing his argument, the learned counsel for the petitioner would submit that as per Tamil Nadu Recognized Private School (Regulation) Rules, 1974, the qualification for the post of Post Graduate Assistant in Academic Subject is that a person must possess a degree and or its equivalent standard in the subject in respect of which appointment is made. The proviso clause also makes it clear that other things being equal, preference shall be given to those who have studied the same subject in which has obtained the Post-Graduate degree as main subject under Part III in degree level and B.T or B.Ed degree or its equivalent should also be possessed in the master degree.

6. When the teacher has obtained all the requisite qualifications, namely, B.A.(Economics) from Arulanandar College affiliated to Madurai Kamaraj University in the year 1987 and B.A. in History (single sitting) from the Madurai Kamaraj University in the year



2004, M.A.Degree in History from Madurai Kamaraj University in the year 2007 and B.Ed degree from the University of Calcutta in 2003 which are the requisite qualifications for appointment of post of P.G. Assistant in Academic subject, the third respondent misplacing the case of the petitioner in appointing the Rev.Fr. A.Simon Raj as P.G. Assistant in History subject wrongly came to the conclusion that the said teacher has obtained Bachelor's degree (History) in single sitting, which is not even contemplated as mentioned in the proposal required as one of the qualifications for appointment to the post of P.G. Assistant.

7. In support of his submission, the learned counsel also relied upon the order passed by this Court in the case of the Corporate Manager, CSI Corporate Schools, CSI Diocese of Kanyakumari, Nagercoil Vs. the Director of School Education, Chennai and 2 others in W.P.No.7778 of 2014 dated 30.04.2004. While considering the similar issue as to whether the teacher has obtained M.A.Degree (Political Science) along with B.Ed degree can be obtained as P.G. Teacher in Political Science, this Court has held that the cross major of the subject in the Post Graduation and Under Graduation cannot be cited as reason. While holding so, the learned single Judge has also relied upon two decisions reported in 2009 (1) CTC 463 (In N.K.Geetha Vs. the Government of Tamil Nadu and another decision reported in 2009(2) TLNJ 101 (Civil) (The Director of School Education, College Road, Chennai and others Vs. Geldon Wifred Viola and another) and allowed the writ petition directing the District Educational Officer, Nagercoil therein to consider the proposal re-submitted by the petitioner school therein.

8. Even in the case of In N.K.Geetha Vs. the Government of Tamil Nadu and another reported in 2009(1)CTC 463, the learned counsel appearing for the petitioner pleaded that this Court has clearly held that where a statutory rule contains a specific provision as regards qualification to be specified by way of Government Order, such statutory rule cannot be altered.

9. Concluding his argument, the learned counsel for the petitioner would submit that in the light of the decided cases mentioned as above, the qualification acquired by Rev.Fr. A.Simon Raj is construed that he has obtained B.A.(Economics) from Arulanandar College affiliated to Madurai Kamaraj University in the year 1987 and B.A. in History (single sitting) from the Madurai Kamaraj University in the year 2004, M.A.Degree in History from Madurai Kamaraj University in the year 2007 and B.Ed degree from the University of Calcutta in 2003, which are requisite qualifications for the post of P.G.Assistant Teacher in History subject, therefore, the third respondent ought not to have passed the impugned order, hence, the same has to be set aside, he pleaded.

10. Learned Government Advocate appearing for the respondents by filing a counter affidavit would submit that after the post of P.G. Assistant History fell vacant in the petitioner school on 11.06.2013 due to the retirement of Bro.Devadoss S.J on 31.05.2013, the petitioner school appointed Rev.Fr.Simon Raj as P.G.Assistant on 11.06.2013 by way of promotion. Although the said teacher acquired B.A.(Economics), M.A. (History) and B.Ed degree in the year 2013, he cannot be appointed as P.G.Assistant in History in the petitioner school for the simple reason <https://hservices.ecgms.gov.in/hservices/> that the teacher has obtained bachelor degree in History in single sitting. He would further submit that it is a well settled position that the right of the employer to prescribe certain standards from the



appointment to various posts cannot be curtailed at the behest of the employee.

11. Adding further, the learned Government Advocate would submit that in all fairness the teacher could be considered for the appointment of P.G. Assistant History if he has obtained B.A.History within a period of three years coupled with M.A.(History) coupled within a period of two years. Since the said teacher has obtained B.A. (History) in a single sitting in a year by means of a dual degree, the third respondent has taken the right decision not to approve his appointment for the reason that the quality of education given to the students should not be compromised by appointing unqualified teachers in the said post. This Court is not able to agree with any one of the reasons taken by the respondent in the counter for the following two reasons.

12. Firstly, while the post of P.G. Assistant fell vacant in the petitioner's school on 11.06.2013 on account of retirement of one Bro. Devadass on 31.03.2014, the petitioner management has appointed the Rev.Fr.A.Simon Raj S.J as P.G.Assistant in History on 11.06.2013. Therefore, the question to be considered is as to whether the Reverential Father A.Simon Raj has acquired the requisite qualification for the post of P.G.Assistant. It has to be mentioned that the said teacher has obtained B.A.(Economics) from Arulanandar College affiliated to Madurai Kamaraj University in the year 1987 and B.A. in History (single sitting) from the Madurai Kamaraj University in the year 2004, M.A.Degree in History from Madurai Kamaraj University in the year 2007 and B.Ed degree from the University of Calcutta in 2003. The qualifications acquired by the said Simon Raj is not disputed by the petitioner or by the third respondent, therefore, the only question needs to be answered is that the qualifications acquired by the petitioner more particularly P.G. Degree in History obtained from Madurai Kamaraj University in the year 2007 along with B.Ed degree can be considered as a requisite qualification for the appointment of P.G. Assistant in the third respondent. In this regard, it is necessary to extract the qualification mentioned in the Annexure V(iv)(4) (Clause - 4) of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974, which is extracted as under:

Post Graduate Assistants in Language (Other than Tamil)

(i) A Master's Degree in the Language in respect of which appointment is made or its equivalent; and

(ii) B.T. Or B.Ed., Degree or its equivalent

Provided that for appointment to the post by recruitment by transfer from the post of Pandit and Munshie in the High Schools, the Pandit Training or Secondary Grade Training shall be considered as equivalent qualification to the B.T. Or B.Ed., degree

Provided further that other things being equal, preference shall be given to those who have studied the same subject in degree and Master's degree levels.

13. A reading of the said regulation clearly shows that the petitioner having acquired P.G.Degree in History from Madurai Kamaraj University in the year 2007 and also B.Ed degree from the University of Calcutta, the question of refusal of appointment of Father A.Simon Raj is far from acceptance.

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14. In a similar circumstance, this Court also while dealing with the identical issued has held as follows:



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5. In this case, it is not in dispute that the petitioner has appointed the said teacher only in a sanctioned post. The only reason assigned for not considering the request for approval is that the said teacher had studied B.Sc., Zoology and M.A. Political Science. But the requisite qualification to the post of P.G. Assistant in Political Science is Post Graduation in Political Science and a B.Ed degree. Therefore, the cross major between the under Graduation and Post Graduation cannot be cited as reason. The very same issue was already considered by this Court in a decision made and reported in 2009(1)CTC 463 N.K.Geetha Vs. The Government of Tamil nadu and the objection raised by the Department was rejected by the learned single Judge. Further in the decision reported in 2009(2) TLNJ 101(Civil) - The Director of School Education, College Road, Chennai - 6 and others Vs. Geldon Wifred Viola and another, the Hon'ble division Bench of this Court has considered the same issue and rejected the appeal filed by the Department.

15. In yet another judgment of the Hon'ble Division Bench of this Court in reported in 2009(2) TLNJ 101 (Civil) (The Director of School Education, College Road, Chennai and others Vs. Geldon Wifred Viola and another) it is also made further clear that the Rules contemplate only a Master's degree in the subject for appointment of a junior grade Post Graduate Assistant and does not mandate a bachelor's degree as well in the same subject and finally concluded that a teacher, who has secured a Master's Degree in the subject would be entitled and is eligible for appointment to the said post.

16. Therefore, in view of the decided cases as the petitioner school has appointed the Rev.Fr.A.Simon Raj, who has obtained the requisite educational qualifications, in my considered view, he is entitled to hold the post of P.G. Assistant(History). Hence, the impugned order passed by the third respondent is liable to be set aside, accordingly, the same is set aside. Resultantly, the third respondent is directed to approve the appointment of the petitioner within a period of four weeks from the date of receipt of copy of this order.

17. In the result, this Writ Petition is allowed. No costs. Consequently, connected M.P.s are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar.

To

1.The Director of School Education, College Road, Chennai - 600 006.

2.The Chief Educational Officer, Tiruchirappalli, Tiruchirappalli District.

3.The District Educational Officer, Tiruchirappalli, Tiruchirappalli District.

+1CC to Mr. Isaac Mohanlal, Advocate, SR.No. 52879.