

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03-11-2016

(Orders reserved on 24.10.2016)

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No..33565 of 2014

Dr.M.Chandra Mohan ... Petitioner

Vs.

1. The Secretary to Government,
College Education Department,
Fort St.George, Chennai-9.
2. The Directorate of College Education,
DPI Compound, College Road,
Chennai-6.
3. The Teachers Recruitment Board,
Rep. by Member Secretary,
DPI Compound, College Road,
Chennai-600 006. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Declaration declaring that the non-selection of the petitioner to the post of Assistant Professor of Physics in the Government Arts and Science College in T.N. College Education Service by direct recruitment in pursuance of the Notification No.4/2013, dated 28.05.2013 as null and void and further direct the respondents to award 15 marks for the teaching experience of the petitioner, select and appoint the petitioner as Assistant Professor of Physics and grant him all consequential service and monetary benefits.

For Petitioner Mr.M.Muthappan
For Respondents Mr.K.Dhananjayan, Spl.G.P.

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Declaration declaring that the non-

selection of the petitioner to the post of Assistant Professor of Physics in the Government Arts and Science College in T.N. College Education Service by direct recruitment in pursuance of the Notification No.4/2013, dated 28.05.2013 as null and void and further direct the respondents to award 15 marks for the teaching experience of the petitioner, select and appoint the petitioner as Assistant Professor of Physics and grant him all consequential service and monetary benefits.

2. It is the case of the petitioner that he has qualified himself in B.Sc. (Physics) in 1986 from Bharathiyar University, M.Sc.(Physics) in 1989, M.Phil (Physics) from the same University in January 1998. He further did his Philosophy under the Faculty of Science and Humanity from Anna University and obtained his Doctoral Degree in 2012. He has served in various institutions and acquired teaching experience and served as Professor of Physics in Vishna Lakshmi College of Engineering and Technology, Coimbatore. The third respondent invited applications from eligible candidates for selection and appointment by direct recruitment to the post of Assistant Professor in Government Arts and Science Colleges in Tamil Nadu College Education Service for the year 2012. He applied for the said post. He belonged to Backward Class Community. His application was accepted and registration was given in No.1643737. As per the Prospectus, for teaching experience--11 marks, for educational qualification--9 marks and for interview--8 marks, have been awarded to him.

3. It is the further case of the petitioner that he has put in 21 years of teaching experience in the Physics subject in the following institutions:-

(i) Associate Lecturer in Physics at Nanjappa Institute of Technology, Karumathampatti, Coimbatore from 28.09.1991 to 31.03.1995 and the said post was re-designated as Lecturer and he was serving from 01.04.1995 to 02.06.2000 (6 years, 9 months and 26 days).

(ii) Park College of Engineering and Technology at Kaniyur in Coimbatore from 05.06.2000 to 06.09.2000 and gained 10 years, 3 months and 1 day experience.

(iii) RVS Technical Campus, Coimbatore as Associate Professor for the period from 06.09.2011 to 15.07.2013 (one year and 10 months).

4. Thus, in total, the petitioner has put in 21 years of teaching experience, in order to get full marks of 15 for teaching experience. The impugned Notification for appointment was issued by the Government for the year 2012 in Notification No.4/2013, dated 28.05.2013 and a Corrigendum was also issued by the third respondent on 02.08.2013. The petitioner was called upon to attend the Certificate verification by the Department

through a Memo, dated 14.11.2013, in Quaid-E-Milleth College for Women, Chennai on 29.11.2013, in which, he was given Verification Number as 13-APDO50723. He produced all the relevant records for the purpose of verification. But, he was given only 11 marks for teaching experience inspite of the fact that he produced documents to show that he gained sufficient experience in teaching, for which he is entitled to 15 marks. After such Certificate Verification, he was called to attend interview, in which he secured 8 marks. Anticipating that the marks might have been reduced, he made a representation, dated 01.12.2014 specifically stating that as per the Corrigendum, he is entitled to get 15 full marks for the teaching experience. When the final list for Physics was published, his name did not appear in the selection list and was not selected on the ground that he did not reach the cut-off marks and secured only 28 marks, and thereby, he went out of the zone of consideration. It is the further case of the petitioner that the provisional mark list shows only 11 marks for teaching experience, instead of 15 marks. The last candidate in the Backward Class community secured 29 marks in BC(W) Community and 30 marks in BCT(GT). The petitioner further avers that he should have been awarded 15 marks for teaching experience instead of 11 marks. It is his grievance that award of marks to him in respect of teaching experience, without taking into consideration the service rendered prior to 2000 (i.e. even from 28.09.1991 to 03.06.2000), is not sustainable. Hence, the petitioner has filed this Writ Petition for the above relief.

5. The respondents have filed counter affidavit disputing the averments of the petitioner and further stating that the petitioner was awarded 9 marks for qualification and 11 marks for teaching experience, totally 20 marks were scored by him. After the conduct of Certificate Verification, the Board short-listed candidates in the ratio of 1:5 based on the Certificate Verification marks, followed by communal rotation. Since the name of the petitioner is found in the short-listed candidates, he was called for interview, in which, he was awarded 8 marks and the marks scored by him was 28, but the cut-off marks of the last candidate selected in the GT(G) and BC(G) are 32 and 30 marks respectively. As he did not score eligible marks in the GT (G) and BC(G) communal turn, he was not considered for final selection for the post of Assistant Professor in Physics. Hence, the respondents have prayed for dismissal of the Writ Petition.

6. Heard both sides and perused the materials available on record.

7. Learned counsel for the petitioner submitted that the petitioner has put in 21 years of service in teaching in Physics subject. It is the petitioner's grievance that in the selection

process for the post of Assistant Professor, he was awarded only 11 marks for teaching experience instead of 15 marks. Learned counsel further submitted that originally, as per the Notification issued for the year 2012 in Notification No.4/2013, dated 28.05.2013, two marks were prescribed for each year, subject to maximum of fifteen years and since the petitioner has put in 21 years of service, he is eligible to get full marks, i.e. 15 marks. In the said Notification, dated 28.05.2013, the following marks have been prescribed for the teaching experience, qualification and interview:

1	For Teaching experience in Universities / Government / aided colleges / Self financing colleges in the approved post including the Teaching experience (in the relevant subject) of the candidates in Medical/Engineering/Law Colleges. (2 marks for each year subject to a maximum of 15 marks)	Maximum
		15 marks
2	Qualification	
	(a) For Ph.D. in concerned subject	9 marks
	(b) For M.Phil with SLET/NET	6 marks
	(c) For PG & SLET/NET	5 marks
3	Interview	10 marks
	Total	34 marks

8. It is seen that, subsequently, a Writ Petition in W.P. (MD).No.18186 of 2013 was filed before the Madurai Bench of this Court, in which, by order dated 12.07.2013, it has been observed as follows in paragraphs 19 and 20 :-

"19. At the time of hearing, the learned Additional Government Pleader appearing for the Teachers Recruitment Board, has submitted that the TRB has decided to withdraw Clause 2 of the corrigendum dated 09.07.2013. The effect is that both Corrigendum dated 19.06.2013 and 09.07.2013 regarding the teaching experience have now gone. Hence, clause 16(i) of the original notification dated 28.05.2013 stands as it is. But Clause 16 (i) does not give any guidelines about the determination of teaching experience. In those circumstances, as held above if a teacher acquired the qualification in terms of the UGC Regulations/Rules as prescribed by the Government/University, the name shall be the

yardstick for determination of the teaching experience.

20. The following are the qualification for more than 25 years and the same shall be taken for regarding marks for the teaching experience :

Sl. No.	Date	Qualification prescribed by UGC for appointment of Lecturers in Colleges/Universities
1	Before 1991	P.G. with 50% minimum marks
2	19.09.1991	P.G. with 55% minimum marks with pass NET/SLET
3	1993	P.G. with 55% minimum marks with NET/SLET Exemption for those who completed M.Phil before 31.12.1993 (or) submitted Ph.D., dissertation before 31.12.1993
4	31.07.2002	P.G. with 55% minimum marks with NET/SLET Exemption for Ph.D., dissertation submitted before 31.12.2002 (or) M.Phil completed before 31.12.2002.
5	14.06.2006	P.G. with 55% of minimum marks with NET/SLET Exemption for M.Phil for taking U.G.Class & Ph.D. for taking P.G. Class. Qualification prescribed by UGC for appointment of lecturers in College/Universities
6	30.06.2010	P.G. with 55% minimum marks with NET/SLET Exemption only for Ph.D. holders

9. Pursuant to the above said order of this Court in W.P. (MD).No.18186 of 2013, dated 12.07.2013, a Corrigendum was issued on 02.08.2013 by the Teachers Recruitment Board, which reads as follows:

"Government of Tamil Nadu
TEACHERS RECRUITMENT BOARD
4th Floor, EVK Sampath Maligai, DPI Compound,
College Road, Chennai - 600 006.

Corrigendum issued to Notification No.04/2013
dated 28.05.2013
Published by Teachers Recruitment Board

The following corrigendum is issued to Advertisement No.4/2013, Published towards, Direct Recruitment of Assistant Professor in the Government Arts and Science Colleges in Indian Express, Dinamani, Namathu M.G.R., and Dinathanthi Newspapers on 28.05.2013. Corrigendum-I issued on 19.06.2013 and Corrigendum-II issued on 09.07.2013.

As per the Hon'ble High Court of Madras Orders in W.P.No.18186 of 2013, the Teachers Recruitment Board is directed to clarify to the Candidates by way of notification in the Newspapers that during relevant period, the qualification mentioned in the paragraph below at the relevant point of time can be considered for awarding marks for Teaching Experience. The Teachers Recruitment Board issued the following Notification.

1. Corrigendum II dated 09.07.2013 - Clause II stands as withdraw.

2. Yardstick for awarding marks for the Teaching Experience.

Sl. No.	Date	Qualification prescribed by UGC for appointment of Lecturers in Colleges/Universities
1	Before 1991	P.G. with 50% minimum marks
2	19.09.1991	P.G. with 55% minimum marks with pass NET/SLET
3	1993	P.G. with 55% minimum marks with NET/SLET. Exemption for those who completed M.Phil before 31.12.1993 (or) submitted Ph.D., dissertation before 31.12.1993
4	31.07.2002	P.G. with 55% marks with NET/SLET. Exemption for Ph.D., dissertation submitted before 31.12.2002
5	14.06.2006	P.G. with 55% of minimum marks with NET/SLET. Exemption for M.Phil for taking U.G. Class & Ph.D. for taking P.G. Class.

Sl. No.	Date	Qualification prescribed by UGC for appointment of Lecturers in Colleges/Universities
6	30.06.2010	P.G. with 55% minimum marks with NET/SLET. Exemption only for Ph.D. holders

3. The last date for sale and submission of filed in application is extended upto 5.30 p.m. on 12.08.2013.

Member Secretary"

10. In the above said Corrigendum, dated 02.08.2013, the respondents have miserably failed in extracting Serial No.4 as it is, as found in the above said order passed by this Court in W.P.(MD).No.18186 of 2013, dated 12.07.2013 and they have omitted to include the term "M.Phil completed from before 31.12.2002" in Sl.No.4.

11. In this case, the petitioner has admittedly passed M.Phil Degree in January 1998, which is prior to 2002. Therefore, it is clear that the petitioner has completed M.Phil. Degree even before 31.12.2002 as contemplated under Sl.No.4 which is indicated in the said order of this Court, dated 12.07.2013 in W.P.(MD).No.18186 of 2013. Therefore, full marks of 15, ought to have been awarded to the petitioner for the teaching experience for the period ending with 31.12.2002, whereas, he has been awarded only 11 marks, which is evident from the counter affidavit in paragraph 5, which reads as follows:

From	To	Weightage marks awarded
14.06.2006	31.05.2007	2 marks
01.06.2007	31.05.2010	6 marks
01.06.2010	06.09.2010	1 mark
04.08.2012	31.05.2013	2 marks
		11 marks

The petitioner was awarded 9 marks for qualification, 11 marks for teaching experience and total marks scored by him is 20."

In the very same paragraph 5 of the above counter affidavit, the respondents have admitted that during Certificate Verification,

the petitioner has produced teaching experience for the following period:

From	To
05.06.2000	05.06.2003
06.06.2003	06.09.2010
06.09.2011	15.09.2013

That being the position, I do not find any justification in awarding only 11 marks to the petitioner for teaching experience from 2006 onwards. Therefore, I am of the opinion that the petitioner is having relevant teaching experience even prior to 2002 and hence, he is entitled for necessary marks for the teaching experience. As per Sl.No.4 in the Corrigendum, dated 02.08.2013, in respect of the qualification prescribed for the teaching experience, he is entitled to get necessary marks for the teaching experience even counted from 31.07.2002 onwards.

12. In the above context, it is also worthwhile to notice that another Writ Petition in W.P.(MD).No.20173 of 2014 (M.Pottiammal Vs. The Secretary, Higher Education Department, Fort St.George, Chennai and another) was filed by a candidate seeking to award marks for teaching experience as per the order passed in the earlier Writ Petition in W.P.(MD).No.18186 of 2013, dated 12.07.2013. In that Writ Petition, the Madurai Bench of this Court, after discussing the earlier order of this Court, dated 12.07.2013 in W.P.(MD).No.18186 of 2013, the Notification and Corrigendum issued by the respondents/TRB, has observed as follows by order dated 02.03.2015 in W.P.(MD).No.20173 of 2014 :

"8. A perusal of the corrigendum would show that the same was made as per the direction issued by this court in the above said writ petition. Therefore, we have to see as to whether the corrigendum reflects the very same qualification referred to in paragraph No.20 of the above said order. A comparative reading of paragraph 20 of the order as well as the yardstick for awarding the marks for teaching experience stated in the corrigendum would show that the respondents have miserably failed in extracting serial No.4 as it is in the order passed by this Court in the above writ petition and they have omitted to include the term "M.Phil completed from before 31.12.2002". Therefore, it is evident that by mistakenly omitting to include the term M.Phil completed before 31.12.2002 in Serial No.4, the petitioner was considered under category falling under Serial No.5 and was given only 3 marks. On the other hand, when admittedly the petitioner has passed M.Phil degree in the year 1997 itself and therefore, she has

completed the M.Phil before 31.12.2002 as contemplated under Serial No.4 of the order passed by this Court as stated supra, she should have been given marks for teaching experience for the period commencing from 31.07.2002. In this case, it is not done so. The mistake is very evident and the said point raised by the petitioner is not answered by the respondents in the counter as well. Therefore, I am convinced that the petitioner is entitled to be awarded marks for teaching experience by placing her in Serial No.4 of the qualification prescribed. Therefore, I am of the view that the petitioner is entitled to get the teaching experience counted from 31.07.2002 onwards. Accordingly, the writ petition is allowed and the respondents are directed to count the teaching experience of the petitioner from 31.07.2002 onwards and award appropriate marks for the same and consequently, based on the marks obtained by the petitioner, the respondents shall pass appropriate order appointing the petitioner in the post of Assistant Professor, if she is eligible based on the marks so obtained. Such exercise shall be done by the respondents within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed. "

13. Hence, the above observations of this Court in W.P.(MD). No.20173 of 2014, would apply to the case of the petitioner in the present Writ Petition also. Accordingly, this Writ Petition is allowed. The respondents are directed to count the teaching experience of the petitioner from 31.07.2002 onwards and award appropriate marks for the same and consequently, based on the marks obtained by the petitioner, the respondents shall pass appropriate orders appointing the petitioner in the post of Assistant Professor, if he is eligible based on the marks so obtained. Such exercise shall be done by the respondents within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

CS

Copy to

1. The Secretary to Government,
College Education Department,
Fort St.George, Chennai-9.
2. The Directorate of College Education,
DPI Compound, College Road,
Chennai-6.
3. The Member Secretary,
The Teachers Recruitment Board,
DPI Compound, College Road,
Chennai-600 006.

+lcc to Mr.M. Muthappan, Advocate, S.R.No.63022

+lcc to the Government Pleader, S.R.No.62827

vd(CO)

md(02/12/2016)

W.P.No.33565 of 2014



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