

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.27600 of 2014
and
M.P.No.1 of 2014

G.Veeramuthu

.. Petitioner

vs.

1.The State of Tamil Nadu,
rep.by its Principal Secretary,
Department of School Education,
Fort St.George, Chennai - 600009.

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

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in his proceedings in R.C.No.680/PG/LC/2014 dated 30.09.2014 and quash the same and consequently, direct the respondents to appoint the petitioner in the post of Post Graduate Assistant in Tamil with retrospective effect.

For petitioner

: Mr.Stalin Abhimanyu

For Respondents

: Mr.C.Jagadish,

Special Government Pleader

ORDER

This Writ Petition has been filed by the petitioner to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in his proceedings in RC No.680/PG/LC/2014 dated 30.09.2014 and quash the same and consequently, direct the respondents to appoint the petitioner in the post of Post Graduate Assistant in Tamil with retrospective effect.

2. Pursuant to the notification dated 9.5.2013 inviting applications for direct recruitment to the post of Post Graduate Assistant/Physical Education Directors Grade I, the petitioner applied for the said post and he was issued Hall ticket and he succeeded in the written examination. He was called for the certificate verification. With the addition of one mark, he was within the cut off mark for the General Category to the post of Post Graduate Assistant in Tamil. However, his selection was considered ineligible for the said post on the ground that he has pursued two degrees simultaneously. Against this order, the petitioner filed Writ Petition No.505 of 2014 on the file of Madurai Bench of this Court seeking for a declaration declaring the non-selection of the petitioner to the post of Post Graduate Assistant in Tamil as illegal and consequently to direct the respondents to appoint the petitioner in the post of Post Graduate Assistant in Tamil. That Writ Petition was disposed of giving liberty to the petitioner to make a representation to the second respondent along with the relevant certificates and the second respondent was directed to consider the same on merits and as per law. Pursuant to the representation of the petitioner, the second respondent passed the order impugned herein.

3. The case of the petitioner is that after completing regular schooling upto Higher Secondary Course, he studied B.Lit., from Annamalai University, Chidambaram and passed in May 2008. Though he had joined M.A. (Tamil) in Distance Education in Annamalai University in the year 2008-2009, he discontinued the same in the year 2009-2010 and studied B.Ed. Course in the regular stream from Tamil Nadu Teachers Education University in the year 2009-2010. After completing, his B.Ed., in the year 2009-2010, he pursued M.A.(Tamil) in the year 2010-2011. Therefore, he has not studied two courses in the same calendar year. As such, he seeks to quash the impugned order dated 30.09.2014 and for a consequential direction.

4. A detailed counter affidavit has been filed by the second respondent denying the averments of the petitioner made in the Writ Petition.

5. When the matter is taken up for consideration, the learned counsel for the petitioner reiterating the averments made in the affidavit submitted that the petitioner after completing B.Lit applied for M.A.(Tamil) under Distance Education in Annamalai University and he studied M.A.(Tamil) First Year in the academic year 2008-2009 and thereafter, discontinued the course, and joined B.Ed. Course in the academic year 2009-2010 and after completing B.Ed. Course in the academic year 2009-2010, he applied for re-admission to the II year M.A. (Tamil) in the academic year 2010-2011. As such, the petitioner has not studied two courses simultaneously in any academic year at any point of time. Therefore, the impugned order is liable to be set aside.

6. Heard the learned Special Government Pleader, Mr.C.Jagadish, on the above contention and perused the materials on record.

7. It is evident from the Certificate issued by the Annamalai University dated 16.6.2014 enclosed in the typed set of papers that the petitioner had discontinued the II year Programme in the academic year 2009-2010. During this academic year, the petitioner has studied B.Ed. Course, i.e. in the academic year 2009-2010, which cannot be denied by the respondents. Thereafter, he was readmitted in II year M.A. (Tamil) in the academic year 2010-2011. Therefore, there is no question of pursuing two courses simultaneously in the academic year 2009-2010.

8. In identical situation, this Court has quashed a similar order and allowed the Writ Petition in W.P.No.3916 of 2014 by order dated 10.09.2014. The counter affidavit filed therein stating that the petitioner has studied B.Ed and M.A. Course simultaneously was considered. The relevant paragraphs are extracted hereunder:-

3. Learned counsel appearing for the petitioner would submit that the petitioner after completing his B.Litt course, had applied for M.A. Degree course through Open university system during the month of May 2007-08 and thereafter he discontinued the same in the year 2008; thereafter he had joined B.Ed.course under regular stream in the year 2008 and completed the same in the year 2008-09. After completing the B.Ed.course, he had again applied for joining the MA course, which he discontinued in the year 2008 and completed the same in the year 2011. Therefore, in his case, in one particular year he has never completed two courses simultaneously. Both B.litt and B.Ed., are completed by the petitioner under regular stream, i.e., for a period of three years and two years respectively; whereas M.A. Degree course was done in the year 2011. He would further submit that the case laws cited by the respondent cannot be applicable to the facts and circumstances of the present case. Accordingly, he would pray for a direction to the respondent to consider the case of the petitioner and place him in the appropriate place in the seniority list.

4. On instructions, the learned Additional Government Pleader appearing on behalf of the respondent-Board submitted that the report containing the order of study was that the petitioner joined M.A. Degree course in the year 2007 and completed the same during the year 2011. In between, during the year 2008, he has joined B.Ed., course and completed the same in the year April 2010. Therefore, the petitioner has done two different courses simultaneously. In this connection, he would rely upon the Division Bench judgment of this Court passed in W.A.No.845 of 2013 dated 07.01.2014 [S.Jagadeeswari vs. The Chairman, Teachers Recruitment Board, Chennai-6 and another] and also the judgment passed by the learned Single Judge in W.P.No.1843 of 2014 dated 13.03.2014 [S.Arivazhagan vs. The Chairman, Teachers Recruitment Board, Chennai-6 and another]. Accordingly, pray for the dismissal of the writ petition.

5. Heard both sides and perused the records.

6. A perusal of the documents filed in the typed set of papers would show that the petitioner has completed the two different courses in the different academic years, viz., B.Ed., in the year 2010 and M.A.Degree in the year 2011. The petitioner has completed the first year M.A.Degree Course in the year May 2008; thereafter, he discontinued the same and joined B.Ed. Course in the year 2008 and completed the same during the year April 2010. Again he had applied for re-admission for completion of the M.A. Degree course in the year 2010 and completed the same in the year 2011. Records have been filed before this Court by way of typed set of papers to prove the same. Whereas, in the cases cited by the learned Additional Government Pleader, it is seen that the petitioners therein have completed two different courses in the same year. Therefore, this Court came to the conclusion that those petitioners were not eligible for consideration to the posts of Post Graduate Assistants in English/Tamil.

9. In the light of the above decision and considering the facts and circumstances of the case, this Court is inclined to allow the Writ Petition. Accordingly, the impugned order is set aside and the writ petition is allowed with a direction to the second respondent to consider the petitioner's name for the post of Post Graduate Assistants in Tamil, in accordance with law, and with due seniority. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

asvm

To

1.The Principal Secretary,
Government of Tamil Nadu,
Department of School Education,
Fort St.George, Chennai - 600009.

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

+2ccs to Mr.S. Stalin Abhimanyu, Advocate, S.R.No.55213
+1cc to the Government Pleader, S.R.No.55399

RV(CO)
EU(28/09/2016)

सत्यमेव जयते

W.P.No.27600 of 2014
and
M.P.No.1 of 2014

WEB COPY