

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:15.02.2016

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THE HONOURABLE Mr. JUSTICE SATISH K.AGNIHOTRI
AND
THE HONOURABLE Mr. JUSTICE M.VENUGOPAL

W.A.Nos.160 & 161 of 2016 and
C.M.P.Nos.2280 to 2282 of 2016

- 1.The Teachers Recruitment Board
rep. By its Chairman,
4th Floor, EVK Sampath Maligai,
DPI Campus, College Road,
Chennai - 6.
- 2.The Director of School Education,
DPI Campus, College Road,
Chennai - 6. ... Appellants/Respondents
in both WAs.
- V.
- S.Padmavathy ... Respondent/Petitioner
in WA.No.160 of2016
- P.Shanthi ... Respondent/Petitioner
in WA.No.161 of2016

Prayer: Writ Appeals filed under Clause 15 of the Letters Patent, against the order of this Court dated 05.02.2014 made in W.P.Nos.34642 & 34643 of 2013. Writ petition have been filed under Article 226 of the constitution of India, praying for a writ of Mandamus directing the respondents to select and appoint the petitioners (Roll Nos V03110069 and V03110066 respectively) to the post of BT Assistant (Mathematics) on merits based on the proceedings of 1st respondent in Na.Ka.No.3285/A2/2008 dated 5.3.2009 and the subsequent orders issued in G.O.Ms. No.72 Higher Education Department dated 30.4.2013 declaring equivalence of B.Sc. Statistics as to B.Sc.Mathematics, within a time frame to be fixed by this court.

For Appellants : Mr.T.N.Rajagopalan
in both W.A.s Special Government Pleader

For Respondents
in both W.A.s : Mr.G.Sankaran

JUDGMENT

(Judgment of the Court was delivered by M.VENUGOPAL, J.)

The Appellants/Respondents have focussed the instant intra-Court Writ Appeal as against the common order dated 05.02.2014 in W.P.Nos.34642 & 34643 of 2013 passed by the Learned Single Judge.

2.The Learned Single Judge, while passing the impugned order in W.P.Nos.34642 & 34643 of 2013 (filed by the Respondents/Writ Petitioners) on 05.02.2014, at paragraphs 4 to 6, had observed the following:

"4.Learned counsel appearing for the petitioners submitted that the issue involved in the present writ petitions is covered by the order of this Court dated 21.8.2013 made in W.P.No.7351 of 2012, batch cases (D.Hasina Banu v. Member-Secretary, Teachers Recruitment Board, Chennai-6 and another) and hence, the same order could be passed.

5.Learned Government Advocate appearing for the respondents submitted that at the time when the final selection list was published, the matter was pending before the Equivalence Committee and therefore, the petitioners were not given appointment.

6.Having regard to the above fact, I am of the opinion that since the Government has now declared that B.Sc. (Statistics) is equivalent to B.Sc. (Mathematics), the petitioners are entitled for appointment as B.T. Assistant (Mathematics). Though the Government Order has been issued subsequently, it does not mean that prior to the issuance of the said Government Order, B.Sc. (Statistics) was not equivalent to B.Sc. (Mathematics). The said G.O. has to be applied from the date of obtaining degree. Therefore, the petitioners are entitled for appointment to the post of B.T. Assistant (Mathematics)."

and resultantly, allowed the Writ Petitions by issuing a direction to the Appellants/Respondents to appoint the Respondents/Petitioners as B.T. Assistant (Mathematics), if post was available.

3. According to the Learned Counsel for the Appellants/ Respondents that the impugned order of the Learned Single Judge is contrary to law and probabilities of the case. Further, it is the stand of the Appellants that Learned Single Judge had failed to appreciate an essential fact that the degree of 'B.Sc. Statistics' was not declared to be equivalent to 'B.Sc. Mathematics' by the competent authority viz., the Government, at the time of certificate verification on which event, the Respondents/Petitioners were not qualified as per the Rules in vogue. Moreover, the Respondents/Petitioners did not possess the U.G. Degree in the relevant subject.

4. The Learned Counsel for the Appellants urges before this Court that the Respondents/Petitioners had attended the certificates verification to qualify for appointment as B.T. Assistant (Mathematics), but it was ascertained that they were not in possession of the requisite qualification viz., B.Sc. (Mathematics) and was in B.Sc. (Statistics) and therefore, their names were withheld.

5. It is represented on behalf of the Respondents that the Respondents/Petitioners had attended certificates verification for the recruitment year 2007-2008 and 2008-2009 and that the Equivalence Government Order was issued only during the year 2013. However, by that time, the mode of recruitment of Graduate Assistant was changed from the year 2011 onwards due to the enactment of Right To Education Act, 2009, according to which, they seeking appointment as Teacher should have passed the Tamil Nadu Teachers Eligibility Test mandatorily.

6. The Learned Counsel for the Respondents contends that if the benefits of the Equivalence Government Order issued on 30.04.2013 are given with retrospective effect, then, it would open a flood gate to similarly situated individuals.

7. According to the Learned Counsel for the Respondents, the Respondents/Petitioners could not be appointed, because in the decision N.Geetha V. The State of Tamil Nadu, represented by its Principal Secretary, Department of School Education, Chennai and another, it was held that G.O.Ms.No.72, dated 30.04.2013 was only prospective in nature.

8. In view of the fact that the subject matter in issue is covered by the Full Bench Decision of this Court in Nadar Thanga Shubha Laxman, A. V. State of Tamil Nadu rep. By its Principal Secretary, Department of School Education, Fort St. George, Chennai-9 and another reported in (2014 (3) CTC 433), wherein one of us, [M.VENUGOPAL, J.] was a Member, whereby and whereunder, in paragraphs 23 to 25, it is observed as follows:

"23. Also, in the present case, neither the Equivalence Committee nor the Government Orders in G.O.Ms.Nos.72, dated 30.04.2013 and 117, dated 02.07.2013, confined the validity of the degree obtained by the candidates to operate prospectively, therefore, as per the above judgments, when the vested rights are created from the date of their acquisition of equivalent degrees, the respondents cannot take a stand that the degrees obtained by the petitioners will only have prospective effect from the date of issuance of Equivalence Certificate. When both the Equivalence Committee and the Government Order have consistently not mentioned the effect of the validity of the degree, it is not proper to hold prospective by any one, more so, by the Court. That apart, a degree or a certificate issued by any University or competent educational authorities always have the effect on par with a decree issued by a competent civil court. Besides, it is well settled legal position that even an executing court cannot go behind its decree and this principle will mutatis mutandis undoubtedly apply to the case on hand as well.

24. It must be stressed here that fairness demands that no court can afford to have more than one view on one or the same issue; lest, there will be inconsistency. Consistency and Uniformity are the basic virtues inherent in every court proceedings. The law is meant to protect people from inconsistency bred by any legal confusion and confrontation. When two of the learned single Judges' orders have not been addressed nor over-ruled on the vital point, we are duty-bound to iron out the inconsistency to have uniformity and consistency on the issue involved. To uphold the 'one court-one view' principle, in turn, to restore the consistency and uniformity, we hereby hold that the view taken in Geetha's case is incorrect, therefore, it is over-ruled.

25. In view of the above settled position and for the foregoing reasons, we hold that the equivalence certificate issued

by the committee constituted by the Government declaring that the degrees obtained from one University is equivalent to the degrees obtained from yet another University cannot be held to be only prospective in operation but will have its effect and validity right from the date of issuance, therefore, with due respect to the Hon'ble Division Bench, the view taken in N.Geetha's case is incorrect. Accordingly, the reference is answered. "

and applying the same, this Court holds that the Writ Appeals preferred by the Appellants are devoid of merits. Consequently, the Writ Appeals fail.

9.In the result, the Writ Appeals are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Sgl

To

1.The Chairman,
Teachers Recruitment Board
4th Floor, EVK Sampath Maligai,
DPI Campus, College Road,
Chennai - 6.

2.The Director of School Education,
DPI Campus, College Road,
Chennai - 6.

+ 1 cc to Government Pleader Sr.9998
+ 2 ccs to M/s. G. Senkaran, Advocate Sr.9764

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AK(CO)
Eu 25.02.16