

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.A.No.786 of 2016

Tamil Nadu Public Service Commission
rep.by its Secretary
Frazer Bridge Road
Park Town
Chennai 600 003

..Appellant/2nd respondent

-vs-

1. K.V.Rajkumar
2. Government of Tamil Nadu
rep.by its Secretary
Higher Education Department
Fort St.George
Chennai 600 009
3. University Grants Commission (UGC)
rep.by its Secretary
Bahadur Shah Zafar Marg
New Delhi 110 002

..Respondents 1&3/Petitioner IKst and
3rd respondent

Appeal under Clause 15 of the Letters Patent, against the order dated 13.01.2015 made in W.P.No.18144 of 2014.

Writ petition filed u/A 226 of the constitution of India praying for a writ of Declaring that the action of the 2nd Respondent in withholding the result of the Petitioner for appointment by direct recruitment to the post included in Group I Services Examination 2011-2013 as illegal arbitrary and contrary to law and consequently direct the 2nd Respondent to declare the result of the Petitioner in respect of his Registration No.00137205 and appoint him to the post of Deputy Collector

For Appellant :: Mr.R.Muthukumaraswamy
Senior Counsel for
Ms.C.N.G.Niraimathi

For Respondents :: Mr.Balan Haridas for R1
 Mr.K.Karthikeyan
 Government Advocate for R2

JUDGMENT

(Judgment of the Court was made by HULUVADI G.RAMESH, J.)

This appeal by the Tamil Nadu Public Service Commission is against the order of the learned single Judge dated 13.1.2015 made in W.P.No.18144 of 2014, directing the Commission to consider the petitioner for appointment to the Group-I post under the preferential allotment to persons studied in Tamil medium.

2. Heard the learned senior counsel for the appellant, learned counsel taking notice on behalf of the first respondent/writ petitioner and the learned Special Government Pleader taking notice on behalf of the second respondent.

3. It appears that the first respondent/writ petitioner, after completing his X Standard and H.S.C., acquired the B.A.Degree in Tamil under the Open University programme during January 2012 and also the B.E.Degree in Electronics and Communication Engineering under the regular programme during April 2012. On the strength of the said qualification, he applied to the appellant/TNPSC for selection and appointment to the Group-I services post, namely, Deputy Collector on preferential allotment of the persons who have studied in Tamil medium under the 20% reserved vacancies. However, the results of the first respondent/writ petitioner were withheld by the appellant/TNPSC on the ground that he had pursued two degrees simultaneously, one through Open University programme and another through the regular programme. Therefore the first respondent filed the writ petition seeking for issuance of a writ of declaration declaring that the action of the second respondent therein in withholding the result of the writ petitioner for appointment by direct recruitment to the post included in Group-I services examination 2011-13 as illegal, arbitrary and contrary to law and to consequently direct the second respondent therein to declare his results and appoint him to the post of Deputy Collector.

4. The learned single Judge in his order, while referring to the minutes of the 494th meeting of the University Grants Commission dated 31.7.2013 permitting the students to pursue two or more degrees simultaneously on regular/distance/private/online/part-time basis, has opined that when it is very clear that the University Grants Commission had taken a decision to permit the students to undergo the two degrees at the same time, the appellant/TNPSC was not correct in rejecting the case of the first respondent/writ petitioner for appointment on preferential basis of the persons who have

studied in the Tamil medium and accordingly directed the appellant/TNPSC to consider the case of the first respondent/writ petitioner for appointment on the basis of the prescribed qualification. Hence this writ appeal.

5. The learned senior counsel for the appellant has contended that the first respondent/writ petitioner is not entitled to be selected for the post and rather would have to be treated as a candidate lacking in educational qualification meant for the post, since he obtained his B.E.Degree in a regular stream from Anna University and simultaneously undergone the B.A.(Tamil) Degree through distance education mode from Tamil Open University and came up for selection only against the vacancies reserved for persons who have studied in Tamil medium. When a candidate cannot pursue both the degrees simultaneously, the degrees so acquired by the first respondent/writ petitioner cannot be held to be valid and therefore the appellant/TNPSC had rightly withheld the results of the first respondent/writ petitioner. However, the learned single Judge has erred in passing orders only based on the minutes of the 494th meeting of the University Grants Commission dated 31.7.2013, which has no bearing on the issue.

6. We have considered the submissions. Of course, it is quite obvious that even the minutes of the 494th meeting of the University Grants Commission dated 31.7.2013 would show that a student can pursue simultaneously two degrees that is to the added advantage of the candidate. Apart from that, the first respondent/writ petitioner is said to have completed the B.E. Degree in the regular course and the B.A.Degree in the open university in Tamil medium. Even assuming that a student cannot pursue both the degrees simultaneously, he can always forgo one of the degrees depending upon the necessity. Be that as it may, in the case on hand, there was no such regulation or rule contemplating that two degrees are not to be pursued simultaneously at the relevant point of time. As already noted, the first respondent/writ petitioner is said to have completed the B.E. Course in regular stream and the B.A.Degree in the correspondence stream much before the year 2012. In the circumstances, the same cannot be faulted, as the first respondent/writ petitioner has been selected by the appellant/TNPSC based on the degree qualification for the post of Deputy Collector Grade I. Therefore the said selection cannot be annulled on the ground that the first respondent/writ petitioner tried to pursue both the degrees simultaneously. It is also to be noted that the first respondent/writ petitioner has been selected for having obtained the degree in Tamil medium. Hence the question of lacking the educational qualification prescribed for the selection to the post of Deputy Collector does not arise, as the candidate has satisfied the requirement of the qualification. Even in the reply sent by the University Grants Commission dated 25.2.2015 through e-mail to the clarification sought for by the first respondent/writ petitioner on 29.10.2014, which is enclosed in page 6 of the

additional typed-set filed by the first respondent/writ petitioner, it is seen that the UGC has not notified any guidelines or norms on allowing or prohibiting a student from pursuing two degrees simultaneously and also it was left open to the employer to decide on the matter depending on the recruitment rules. Further in page-8 of the very same typed-set, a letter written by the Public Information Officer of Anna University to an RTI query also shows that there is no clause provided in the Anna University Regulations prohibiting a student to pursue both the degrees simultaneously. At this point of time the appellant/TNPSC cannot say that the first respondent/writ petitioner does not have the requisite qualification. Even otherwise, for the purpose of accepting the case of the first respondent/writ petitioner in obtaining the two degrees simultaneously, one in correspondence course and another in regular course, in the absence of any such bar to pursue the two degrees simultaneously, in our view, the decision of the appellant/TNPSC, after entertaining a doubt at a later stage, to withdraw the appointment of the first respondent/writ petitioner already selected under the Tamil medium, is redundant and totally unnecessary to the issue raised herein. In that view of the matter, as ordered by the learned single Judge, it is for the appellant/TNPSC to take a decision at the earliest and to do the needful, as there was no bar for a candidate/student to pursue the two degrees simultaneously at the relevant point of time. Accordingly, the writ appeal stands disposed of. Consequently, C.M.P.No.10209 of 2016 is closed. No costs.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

सत्यमेव जयते

ss

To

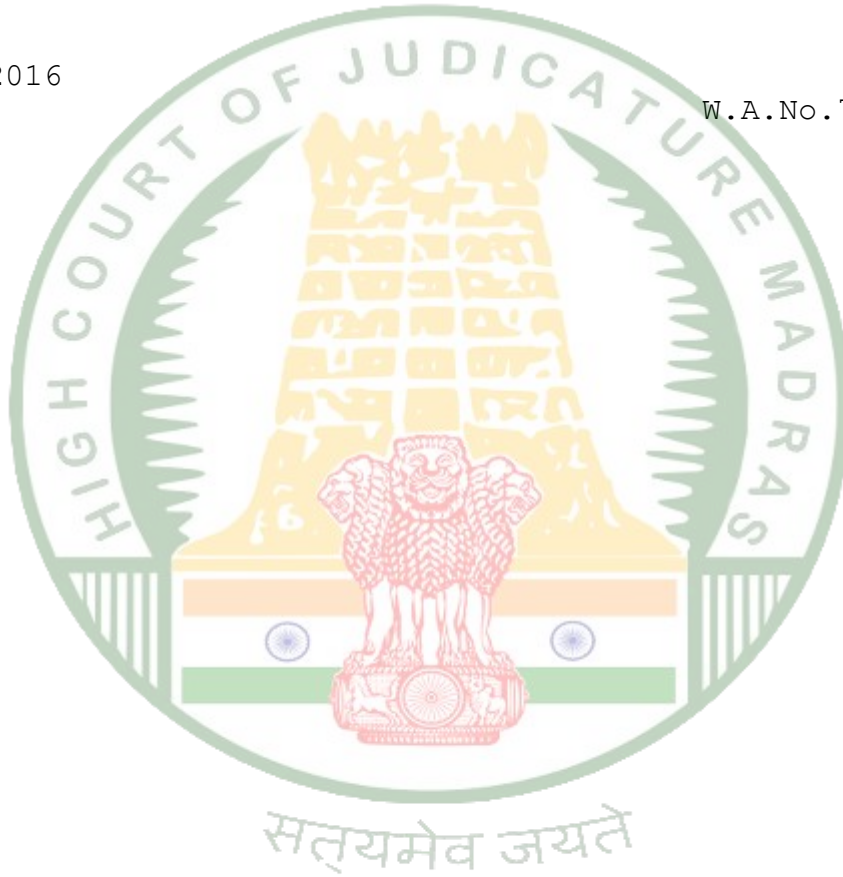
1. The Secretary to Government
Higher Education Department
Fort St.George
Chennai 600 009
2. The Secretary
University Grants Commission (UGC)
Bahadur Shah Zafar Marg
New Delhi 110 002

3. The Secretary
Tamil Nadu Public Service Commission
Frazer Bridge Road
Park Town
Chennai 600 003

+1 cc to Mr.C.N.Niraimathy Advocate (sr.38390)
+1 cc to Mr.Balan Haridas, Advocate (sr.38365)

PUR(CO)
CP 23/07/2016

W.A.No.786 of 2016



WEB COPY