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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

and

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

W.A. (MD) No. 1283 of 2016

and

C.M.P (MD) No. 8742 of 2016

1. The Secretary to Government,
Department of School Education,
Fort St. George, Secretariat,
Chennai.

2. The Chairman,
Teachers Recruitment Board,
College Road,
Chennai - 600 006.

... Appellants/Respondents

Vs.

1. K. Rajesh Kumar
2. Alagappa University,
Rep. by its Registrar,
Karaikudi,
Sivagangai District.

... Respondent/Petitioner

... It is not necessary party
given up R3 Respondent/3rd Respondent

PRAYER: The Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order passed by this Court in W.P. (MD) No. 16071 of 2012, dated 19.09.2013.

Prayer in WP (MD) No. 16071/2012:-

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, call for the records pertaining to the impugned selection list dated 05.12.2012 relating to the petitioner and quash the same and consequently direct the second respondent to select the petitioner for the post of Graduate Assistant (B.T Assistant) in the discipline of B.A English vacancy arising out of the Tamil Nadu Teacher Eligibility Test - Supplementary 2012 held on 14.10.2012 and direct the second respondent to appoint him in the above post.



For Appellants : Mr.Mr.D.Muruganandam
Addl.Govt.Pleader
For Respondent-1 : Mr.Shanmugaraja Sethupathi

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JUDGMENT

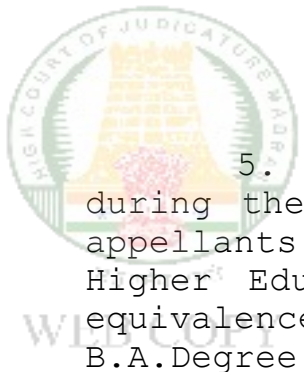
(Judgment of this Court was made by M.SATHYANARAYANAN, J.)

The first respondent / writ petitioner has filed W.P.(MD) No.16071 of 2012, praying for quashment of the impugned selection list of the second appellant / second respondent for the post of Graduate Assistant (B.T.Assistant). In the said Writ Petition after contest came to be allowed and the official respondents 1 and 2 aggrieved by the same, had filed this Writ Appeal.

2. According to the first respondent / writ petitioner, he had completed his under graduation course in B.A (Vocational English) in Alagappa Government Arts College, Karaikudi, which is affiliated by the third respondent, in the year 2009 and subsequently completed his Bachelor of Education in May 2010 and he has also issued with Provisional Certificate for B.A. Degree by the Tamil Nadu Teachers Education University, and as such, he has fully qualified for the post of B.T.Assistant in B.A.English discipline. The petitioner has also enrolled his educational qualification with the District Employment Exchange, Ramanathapuram.

3. It is further stated by the first respondent / writ petitioner that the second respondent / second appellant, Teachers Recruitment Board, (TRB) had conducted Teacher Eligibility Test (TET) on 12.07.2012 and Teacher Eligibility Supplementary Examination on 14.10.2012, for Paper I and II and he had written the Supplementary Examination. In the result declared, he has declared to have been passed by securing 99 marks and thus qualified for Graduate Assistant (B.T.Assistant). It is further stated by the petitioner that though the candidates, who have secured 60% marks and above were called for the Certificate Verification, the petitioner accordingly appeared and produced all the relevant certificates and thereafter, the 2nd appellant herein has released the tentative provisionally selected list of candidates, for the Graduate Assistants and the name of the petitioner was found missing.

4. The petitioner, on an enquiry, came to know that he was not selected for the reason that since the B.A. (Vocational English), is not equivalent to B.A.English Literature. According to have been selected and appointed as Graduate Assistant (B.T.Assistant) and hence, came forward to file the Writ Petition.



5. The Writ Petition was taken up for final disposal and during the course of argument it was submitted on behalf of the appellants 1&2 / official respondents 1 and 2 that G.O.Ms.No.72, Higher Education (K2) Department, dated 30.04.2013 pertains to equivalence is only prospective in nature and therefore, B.A.Degree in Vocational English is equivalent to B.A.Degree in English only on or after the date of issuance of the said Government Order. Since the petitioner has obtained the degree in B.A. Vocational English, prior to the said cut-off date, his Degree cannot be considered as equivalent to B.A. Literature.

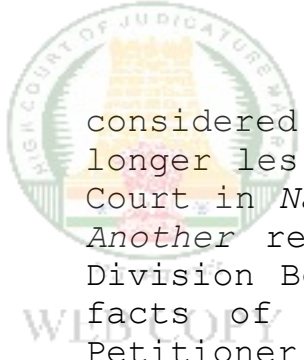
6. The learned Judge after taking note of the rival submissions found that even after the the said Government Order, B.A.Vocational English conferred by the Alagappa University is equivalent to B.A.Degree in English and therefore, the stand taken by the appellants herein that G.O.Ms.No.72, Higher Education (K2) Department, dated 30.04.2013, is only prospective in nature and the said stand cannot be countenanced at any stretch of imagination.

7. In the light of the said findings, the learned single allowed the Writ Petition declaring that B.A. Vocational Degree obtained by the petitioner is equivalent to B.A.English Literature and also passed a consequential direction to give him appointment as Graduate Assistant in English Literature and also stipulated time frame for compliance of the said order. The respondents in the Writ Petition aggrieved by the said order, has filed this Writ Appeal.

8. Mr.D.Muruganandam, the learned Additional Government Pleader appearing for the appellants has drawn the attention of this Court to the typed set of documents and would submit that since a specific cut off date has been provided in G.O.Ms.No.72, Higher Education (K2) Department, dated 30.04.2013, unless it is declared as arbitrary, the Court normally should not interfere with the fixation of cut-off date for recognizing the equivalence. It is further submitted by the learned counsel appearing for the appellants that retrospective operation of the equivalence can be made applicable only for academic and not in respect of service matters and overlooking the said settled principles, the Writ Petition came to be allowed and prays for interference.

9. This Court paid its best attention to the rival submission and also perused the materials placed before it.

10. The primordial question arises for consideration in this Writ Appeal is that whether the equivalence in respect of the Degree in B.A. Vocational in English, is prospective or retrospective in nature in the light of the Government Order in G.O.Ms.No.72, Higher Education (K2) Department, dated 30.04.2013?. In the



considered opinion of the Court, the said question / issue is no longer *les integra* in the light of the Full Bench Judgment of this Court in *Nadar Thanga Shuba Laxman. A v. The State of Tamil Nadu & Another* reported in (2014 (2) L.W.881) and also a Judgment of Division Bench of this Court reported in (2014 (2) L.W.892). The facts of the Full Bench case would disclose that the Writ Petitioner therein had applied for the post of Graduate English and subsequently called for certificate verification and later on he was not given appointment on the pretext whether B.A Degree English and Communication issued by the Tamil Nadu Open University is equivalent to B.A.Degree in English or not. The learned single Judge of this Court had found that there are two contrary views as to the prospective and retrospective nature of the equivalence and referred the matter to the Larger Bench and it is relevant to extract the relevant paragraph:

"Whether the Equivalence Certificate issued by the Committee constituted by the Government, declaring that the degree obtained from one University is equivalent to the degree obtained from yet another University is only prospective in operation and whether the view taken by the Division Bench of this Court in N.Geetha's case is correct?"

11. The Full Bench on exhaustive consideration of all the materials, held as follows:-

"To put it as an illustration, if 'A' acquires a degree - B.A in English and Communication on 01.01.2010, the said degree, having been considered as equivalent to B.A. Degree in English by the Equivalence Committee constituted by the Government by a Government Order, dated 01.01.2012, the same cannot be equivalent from the date of passing the G.O. viz., 01.01.2012, belatedly, after two years viz., on 01.01.2012. This is for the reason that when the Equivalence Committee, after many deliberations, gives its seal of approval that one degree can be considered as equivalent to another degree by expressing their view on a particular date accepting the validity of the degree from the date of issue by the concerned university or educational institutions, definitely, it goes without saying that such a degree/diploma/certificate holder is entitled to enjoy the utility of the degree without even losing its validity from the date of issuance of the Government Order. Since this vital aspect, with due respect to the learned Division Bench, has been overlooked in N.Geetha's case, we are



inclined to hold that once a degree/diploma/certificate is issued, the same will have its validity from the date of issuance by the concerned university or educational institution but not from the date of issuance of Government order, accepting the recommendation of the Equivalence Committee."

12. The said decision of the Full Bench has subsequently followed by a Division Bench of this Court in *the State of Tamil Nadu and Others Vs. S.Padmavathi & others* reported in (2014 (2) L.W 893).

13. In the light of the ratio laid down in the aforesaid decisions, this Court is of the view that the stand of the appellants / official respondents 1 and 2 is untenable.

14. In the light of the reasons assigned, the Writ Appeal is dismissed and the order dated 19.09.2013, made in W.P.(MD) No.16071 of 2012, is to be complied with as expeditiously as possible, if not already complied with. Consequently, connected miscellaneous petition is also dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub-Assistant Registrar

To

1.The Secretary to Government,
Department of School Education,
Fort St.George, Secretariat, Chennai.

2.The Chairman, Teachers Recruitment Board,
College Road, Chennai - 600 006.

+One cc to Mr.D.Shanmugaraja Sethupathi, Advocate, SR.No.55004

+One cc to The Special Government Pleader, SR.No.55187

mpk

RL/5C/5P/CK/17.10.2016

W.A. (MD) No.1283 of 2016 and
C.M.P (MD) No.8742 of 2016