

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Writ Appeal No.89 of 2014
and M.P.No.1 of 2014

M.Ethirajulu

..Appellant/Petitioner

Vs

1.Government of Tamil Nadu
Rep. By Secretary to Government
School Education Department
Secretariat
Chennai-600 009

2.The Chairman
Teachers Recruitment Board
Chennai-600 006

3.The Director
Directorate of Teacher Education
Research & Training (DTERT)
College Road, Chennai-600 006

4.L.Uma

..Respondents

Prayer : Writ Appeal filed against the order dated 03.10.2012 passed
in w.P.No.19778 of 2011.

For Appellant :: Mr.M.Ethirajulu
Appellant in Person.

For Respondents :: Mr.P.S.Sivashanmugasundaram,
Spl.G.P., for R1 to R3.
Mr.R.Saravanakumar for R4.

JUDGMENT

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

The impugned order which was challenged by the Writ Petitioner/M.Ethirajulu/Appellant herein, in W.P.No.19778 of 2011 is Na.Ka.No.6331/A4/2010 dated 26.10.2010, which is a rejection of the request made by the Writ Petitioner, for grant of seniority over and above the fourth respondent/L.Uma.

2. The short facts of the case are that the Appellant herein/M.Ethirajulu and the fourth respondent/L.Uma were selected by the Teachers Recruitment Board for appointment as Junior Lecturers, in the Directorate of Teacher Education, Research and Training. While the Appellant was qualified with M.A.Degree in History, obtained in Telugu Medium and also had a M.Ed., Degree, the fourth respondent had only a

M.A.Degree in Telugu Literature, without M.Ed., However, out of five candidates who applied for the appointment of Junior Lecturers (Telugu Language), the fourth respondent stood first in the written examination. The Teachers Recruitment Board, by letter 09.09.2002 sought concurrence for the appointment of the fourth respondent as well as a few others who did not have the qualification of M.Ed., Thereafter by G.O.Ms.No.146, School Education dated 10.09.2002, the Government treated the case of the fourth respondent as a special case and exempted her from the requirement of possession of a M.Ed., qualification. However, vide appointment order dated 14.12.2002 issued in favour of the 4th respondent, in paragraph 2, it is stated as under:-

"அன்னார் பணியில் சேர்ந்த மூன்று ஆண்டுகளுக்குள் எம்.எட் கல்வித் தகுதியை பெற வேண்டும் என்றும் நிபந்தனையின்படி நியமன ஆணை வழங்கப்படுகிறது."

3. The learned Single Judge has observed in his order dated 03.10.2012 that the Appellant joined the service on 20.12.2002, while the contesting 4th respondent viz., L.Uma joined duty on 19.12.2002. Further it is also observed that the Writ Petitioner/appellant possessed the qualifications required for appointment to the post of Junior Lecturer

even on the date of his selection and appointment. But, the fourth respondent did not possess the qualification of a M.Ed. The learned Single Judge also observed in Paragraph 10 of the order that the communication from the Secretary to Government dated 09.09.2002 to the Chairman of the Teachers Recruitment Board, indicated that the fourth respondent could be appointed with a condition that she should acquire M.Ed., degree through distance education within three years.

4. It appears that in the seniority list released on 01.01.2009, the name of the fourth respondent was placed at Serial No.8 and the name of the petitioner was placed at serial No.9. However, from the documents produced, it is seen that the contesting respondent L.Uma did not possess requisite qualification viz., M.Ed., either on the date of selection or on the date of appointment. It is also seen that challenging the regularisation of the fourth respondent and the competency of the authority to give relaxation from regularisation to the 4th respondent, the appellant herein filed another Writ Petition before this court, raising the ground that the fourth respondent has not satisfied the stipulation mentioned in the appointment order, which is discussed infra.

5. Though three years period has been given as stipulation for acquiring M.Ed., degree, for regularisation of the 4th respondent , in the post of Junior Lecturers (Telugu Lanugage), admittedly, the fourth respondent has not completed the requisite qualification within the said period.

6. The submission put forth by the appellant is that M.Ed., degree is the basic technical qualification prescribed by NCTE for appointment to the post of Junior Lecturer and the same cannot be relaxed, is found to be correct and acceptable by us.

7. The leaned Single Judge, by his order dated 03.10.2012, pointed out that the order of appointment of the fourth respondent does not contain a stipulation; assuming that it does, the fourth respondent had satisfied the condition. However, in our considered view, in relation to 4th respondent/L.Uma, the observation made to the effect that the fourth respondent has completed her M.Ed degree within three years is found to be factually incorrect. In such circumstances, the seniority fixed for the 4th respondent/Uma has no legs to stand upon. Therefore, we hold that the order impugned in the Writ Petition dated 26.10.2010 passed by the

third respondent, rejecting the request of the Appellant to refix the seniority is erroneous and the same is liable to be set aside. Further, the seniority of the appellant herein is to be fixed over and above the 4th respondent.

8. At this juncture, the Special Government Pleader, appearing for Respondents 1 to 3, has submitted that pursuant to the direction passed by this court in W.P.No.19778 of 2011 dated 12.03.2012 and taking into consideration that the fourth respondent has taken her viva exam only on 06.01.2006, by Proceedings dated 14.09.2012, the appellant's seniority is refixed at Sl.No.8. However, while the 4th respondent is stated to have acquired the requisite qualification, the seniority is stated to have again restored by placing the fourth respondent senior above the appellant and this fact has not been put forth before the learned Single Judge while considering the above said Writ Petition after recalling the order dated 12.03.2012. We record the said statement for the purpose of warranting interference in the order of the learned Single Judge.

9. In view of the foregoing discussion, we are satisfied that on the date of selection as well as on the date of appointment, the 4th

respondent did not possess the requisite qualification viz., M.Ed., though she scored highest marks in the selection examination and therefore, for want of basic education certificate, which is the basic technical qualification prescribed by NCTE for appointment to the post of Junior Lecturer, the Government ought not to have given exemption. Though three years time has been stipulated at the time of appointment by the authorities, the fourth respondent has not completed M.Ed., within the said stipulated period.

In fine, this Writ Appeal is allowed. The impugned order in W.P.No.19778 of 2011 dated 26.10.2016 is set aside. The order of the learned Single Judge, dated 03.10.2012 is also set aside. No costs. Consequently, connected MP is closed.

(H.G.R.J.)

(T.K.R.J.)

09.11.2017

Index: Yes/No

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Note: Issue order copy on 24.11.2017

HULUVADI G.RAMESH,J.

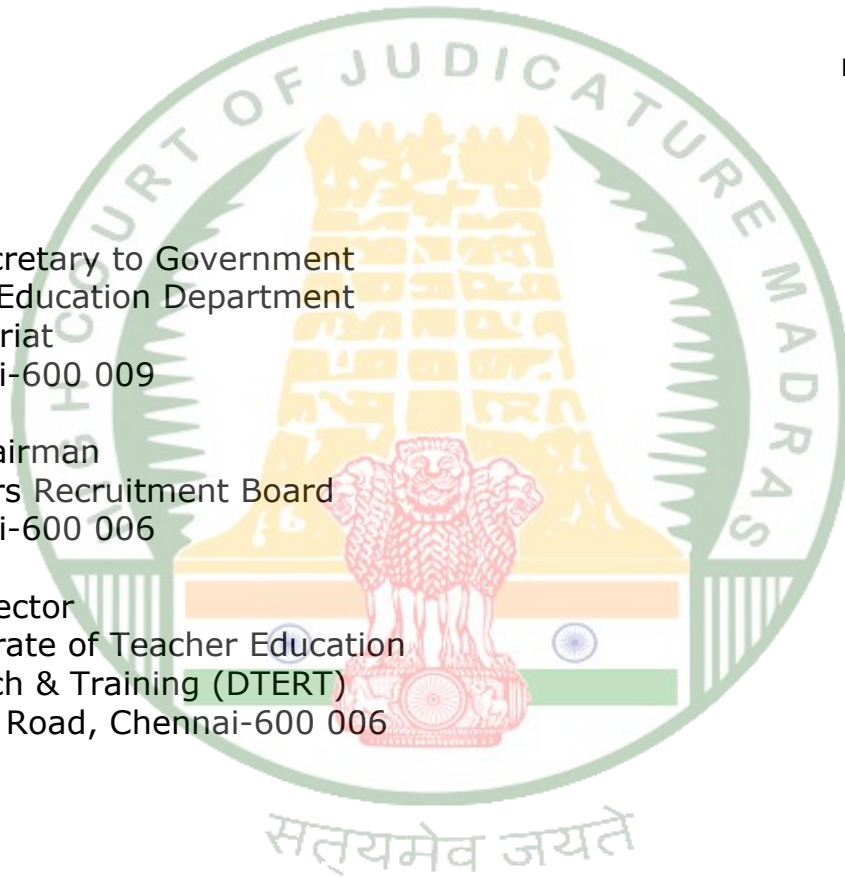
and

TEEKAA RAMAN,J.

nvsri

To

- 1.The Secretary to Government
School Education Department
Secretariat
Chennai-600 009
- 2.The Chairman
Teachers Recruitment Board
Chennai-600 006
- 3.The Director
Directorate of Teacher Education
Research & Training (DTERT)
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