

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.34844 of 2013 and
M.P.No.1 of 2013 and
M.P.No.1 of 2014

T.Nedumaran ... Petitioner

Vs.

1.The Chairman,
The Teacher Recruitment Board,
4th Floor E.V.K. Sampath Building,
DPI Campus, College Road,
Chennai - 600 006.

2.The Director of Collegiate Education,
DPI Campus, College Road,
Chennai - 600 006. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the 1st Respondent to award appropriate marks for Teaching Experience to the Petitioner (Regn No.1627534) by considering the Teaching Experience gained by the Petitioner from 01.09.2003 onwards for selection to the post of Assistant Professor in Business Administration based on the notification/prospectus issued by 1st Respondent Teacher Recruitment Board dated May 2013 for direct recruitment of Assistant Professor in Tamil Nadu Collegiate Education Service in 2012 and consequently direct the 1st Respondent to allow the Petitioner to undergo the process of selection including Interview and to select and appoint the Petitioner to the post of Assistant Professor in Business Administration based on merits in the selection.

For Petitioner : Mr.G.Sankaran

For Respondents: Mr.R.Govindasamy
Special Government Pleader

O R D E R

Invoking the writ jurisdiction of this Court under Article 226 of the Constitution of India, the petitioner has preferred this writ petition for issue a Writ of Mandamus, directing the 1st respondent (the Teachers Recruitment Board, Chennai-6), to award appropriate marks for teaching experience to the petitioner by taking into consideration the teaching experience gained by him from 01.09.2003 onwards for selection to the post of Assistant Professor in Business Administration based on the notification/advertisement No.4/2013, dated 28.05.2013, issued by the 1st respondent inviting applications for direct recruitment to the aforesaid post in Tamil Nadu College Education Service and allow the petitioner to undergo the process of selection including interview and to select and appoint the petitioner to the post of Assistant Professor in Business Administration in Tamil Nadu Government Colleges for Arts and Science.

2.The Teachers Recruitment Board of the Government of Tamil Nadu (the 1st Respondent) in its advertisement No.4/2013, dated 28.05.2013, notified a number of vacancies in the post of Assistant Professor in various disciplines and called for applications from eligible candidates in the respective subjects, fixing the last date for submission of applications as 10.07.2013. The petitioner, after undergoing School and College Education as a regular student in 10+2+3 pattern, acquired Under Graduate degree in Science from Bharathidasan University. Thereafter, he joined the regular course of M.B.A. In Business Administration in the same University and completed the course in the examination held in November 1999. Subsequently, he got engaged as a guest lecturer in Raja Saraboji Government College, Thanjavur from 01.09.2003 and was continuously engaged as such from the said date till the submission of his application for the post of Assistant Professor in accordance with the notification of the 1st respondent, dated 28.05.2013 referred above. Subsequently, he joined M.Phil. course in the same subject and completed the course and obtained the degree of Master of Philosophy in the examinations held in October 2005. The M.Phil. degree was also obtained from the very same university, namely Bharathiyar University Trichy. However, the M.Phil. degree was obtained through correspondence course, but after undergoing the entire length of course as prescribed by the University Grants Commission (UGC). Being a guest lecturer, he was admitted to the part time Ph.D. Course in the Bharathidasan University leading to his acquisition of the Doctorate Degree (Ph.d.) in management by May 2012. Having put in continuous experience in teaching from 01.09.2003 with artificial breaks during summer vacations, he applied for the

post of Assistant Professor in Business Administration, in respect to the above said notification No.4/2013 of the 1st respondent.

3.The scheme of awarding of marks for selection to the post of Assistant Professor as per the amended prospectus issued by the 1st respondent is as follows:

For educational qualification maximum 9 marks shall be awarded to candidates for possessing a doctorate degree (Ph.D.) in the concerned subject, 6 marks will be awarded for possessing M.Phil. degree with SLET/NET and for P.G. Degree with SLET/NET 5 marks will be awarded. The maximum marks that can be awarded for educational qualification shall be 9. Apart from the same, for teaching experience a maximum of 15 marks shall be awarded at the rate of 2 marks for each year. 10 marks have been allocated for the candidate's performance in the interview. To be more precise, the following tabular column is provided to indicate the pattern of marks to be awarded:

Sl.N o.	Description	Marks
1.	For teaching experience in Universities/ Government/aided colleges/self financing colleges in the approved post including the teaching experience (in the relevant subject) of the candidates in Medical/Engineering/Law Colleges. (2 marks for each year subject to a maximum of 15 marks)	Maximum 15 marks.
2.	Higher Qualification a) For Ph.D. in concerned subject - 9 b) For M.Phil. with SLET/NET - 6 c) For PG & SLET/NET - 5	9 marks (Maximum)
3.	Interview	10 marks
	Total	34 Marks

4.At the time of initial verification of certificates, the petitioner was awarded 9 marks (the full marks) for educational qualification since he did possess a Ph.D. Degree in Business Management. However, the 1st respondent chose the award only 2 marks for teaching experience, even though the petitioner had

produced experience certificate to the effect that he had put in experience as a guest lecturer in Rajaji Saraboji Government College, Thanjavur, from 01.09.2013 till 17.07.2013. The same was done on the premise that the petitioner did not possess the essential qualification for appointment to the post of Lecturer/Assistant Professor before his acquisition of Ph.D. that he had acquired Ph.D. degree only in May 2012 and that he had one year teaching experience from that date. Aggrieved by the same and contending that his service as guest lecturer from 01.09.2003 should be taken into account for awarding weightage marks for teaching experience, the petitioner knocked at the doors of this Court with the present writ petition.

5. After the filing of the writ petition and during the pendency of the writ petition, the 1st respondent revised the award of weightage marks for teaching experience and awarded 14 marks on the premise that the petitioner became eligible for exemption from 14.06.2006. The petitioner secured 7 marks in the interview, taking his aggregate score to 30 out of 34. The petitioner belongs to B.C. Community and the cut off marks for B.C. candidates for consideration for appointment to the post of Assistant Professor in Business Administration was fixed as 31 out of 34. At the time when it was reported to the Court by the 1st respondent that the petitioner was awarded 14 marks for teaching experience, the petitioner made the writ petition to be kept pending till the outcome of the final selection. Under the said circumstances, the writ petition came to be posted before the Court for passing orders after hearing his submission to be made on both sides.

6. I heard Mr. G. Sankaran, learned counsel appearing for the petitioner and Mr. R. Govindasamy, learned Special Government Pleader appearing for the respondents and perused the entire records.

7. It is the contention of the learned counsel appearing for the writ petitioner that the 1st respondent initially wanted to rule out the eligibility of the petitioner for weightage marks even from the date of acquisition of M.Phil. degree on the ground that the M.Phil. course was done through correspondence and that however, subsequently the 1st respondent came forward to recognise that the petitioner was entitled to exemption from passing SLET/NET to become eligible for the post of Assistant Professor as it was notified in the corrigendum issued by 1st respondent that for seeking that exemption from SLET/NET, the M.Phil. degree should have been completed before 14.06.2006. It is the further contention of the learned counsel for the petitioner that even before the said date, the petitioner had acquired M.Phil. degree and had become eligible for exemption from passing SLET/NET right from the date of his completing the

M.Phil. degree course.

8.It is the further contention of the learned counsel appearing for the petitioner that even if the period of his teaching experience as guest lecture prior to the date of acquisition of M.Phil. degree is to be disregarded for the grant of weightage marks for teaching experience, he was eligible to claim weightage marks from the date of passing the examination conducted for the grant of M.Phil. degree, which was the date on which he became eligible for exemption from passing SLET/NET and that, if such a contention was made, he ought to have been awarded full marks (15 marks) for teaching experience as he had put in 8 years of teaching experience.

9.The first and foremost contention of the learned Government Pleader on behalf of the respondents is that though the petitioner did acquire M.Phil. degree prior to 14.06.2013, he became eligible for exemption from SLET/NET for U.G. level teaching only from the date of notification issued by the UGC in F.No.1-1/2002/(PS) Exemp. Dated 14.06.2006 and that the same was the reason why his teaching experience was counted from 14.06.2006 onwards as per the revised awarding of marks on various categories.

10.As an answer to the above said contention, the learned counsel appearing for the petitioner would submit that though the notification was issued on 14.06.2006, stating that the candidates having Ph.D. degree for teaching P.G. level and U.G. level and the candidates having M.Phil. degree for teaching U.G. level were exempted from SLET/NET, it could not be construed that the exemption would be applicable from the date of issuance of the said notification and on the other hand, the concerned candidate would have become eligible for such exemption right from the date of acquisition of the Ph.D. or M.Phil. degree, as the case may be. According to the contention of the learned counsel appearing for the petitioner, the teaching experience of the writ petitioner prior to the date of the aforesaid notification, namely 14.06.2006, cannot be totally ignored and that, at the best, his teaching experience from the date of his completion of M.Phil. degree should be taken into account for awarding weightage marks, as he became eligible for exemption from the date of completion of M.Phil. degree.

11.The rival submissions made on both sides are taken into consideration by this Court.

12.The admitted factual possession is that the petitioner, after undergoing the regular course and acquired M.B.A. Degree from Bharathidasan University, was appointed/engaged as guest lecturer for management in Sri Raja Saraboji Government College,

Thanjavur, from 01.09.2003 and continuously worked as such till the certificate verification was made for the selection of candidates for appointment to the post of Assistant Professors concerned in this writ petition, with artificial breaks during summer vacations. The artificial breaks themselves cannot be even termed as breaks because, as per the scheme of the Government, the guest lecturers were to be paid for the period during which the college was run and not when it would be closed for vacation. It is also an admitted fact that, as per the Teachers Recruitment Board prospectus issued regarding the employment notification in advertisement No.4/2013, if the candidate had put in experience for more than 3 months in an academic year, the same should be reckoned as 6 months and 1 mark should be awarded for the same. Similarly, if the teaching experience is more than 6 months it should be reckoned as 1 year, inviting the awarding of 2 marks a weightage marks. According to the experience certificate submitted by the petitioner, he worked for the following period as indicated in the tabular column:

Sl. No.	Subject Taught	Level (UG/P G)	No. of periods per week	Period of service				
				Date from	Date To	Y	M	D
1	Business Administration	UG	16	01.09.2003	21.04.2004		8	
2	Business Administration	UG	16	16.06.2004	12.04.2005		11	
3	Business Administration	UG	16	01.07.2005	13.04.2006		10	
4	Business Administration	UG	16	01.07.2006	13.04.2007		10	
5	Business Administration	UG	16	13.06.2007	12.04.2008		10	
6	Business Administration	UG	16	10.07.2008	15.04.2009		10	
7	Business Administration	UG	16	17.06.2009	15.04.2010		10	

Sl. No.	Subject Taught	Level (UG/P G)	No. of periods per week	Period of service				
8	Business Administration	UG	16	12.06.2010	31.03.2011		10	
9	Business Administration	UG	16	13.07.2011	31.03.2012		10	
10	Business Administration	UG	16	18.06.2012	30.04.2013		11	
11	Business Administration	UG	16	01.07.2013	17.07.2013			17
	Total					10		17

13.If the petitioner is eligible for the inclusion of the period prior to his acquisition of M.Phil. degree, his total experience in teaching will amount to 10 years for which he can get 15 marks (full) as weightage marks. However, it is conceded, during arguments, on behalf of the petitioner that the teaching experience prior to his acquisition of M.Phil. degree may be disregarded and the teaching experience from the date of his acquisition of M.Phil. degree alone may be taken into consideration. As per the experience certificate produced by the petitioner at the time of verification of certificates, he had completed the M.B.A. degree in November 1999 and got M.Phil. degree in the examination conducted by Bharathidasan University in October 2005. Though the degree certificates came to be issued later, the date of last examination for the conferment of the degree shall be the date of acquisition of the degree. If such a course is adapted, it shall be concluded that the petitioner acquired M.Phil. degree in October 2005. But the date of last examination leading to conferment of M.Phil. degree in management is not found in the documents produced before this Court. Hence, it can be safely presumed that the conferment of the degree should have been at least at the end of October 2005 and therefore, omitting October 2005, the entire period from 01.11.2005 till 12.08.2013 should have been taken into account for counting the teaching experience. The periods of vacation are also to be omitted. Referring to an earlier G.O. regarding marks for experience, G.O.(MS) 412 Higher Education Department dated 07.12.2009 came to be issued. For proper understanding the relevant portion of the G.O. is extracted hereunder:

"Teaching experience in Universities/Government/Aided Colleges/Self financing colleges in the relevant subject in the approved post duly countersigned by the RJD and for Universities by Registrar, including teaching experience in the relevant subject in Medical/ Engineering/Law Colleges duly countersigned by the appropriate authority (at a rate of 2 marks for more than 6 months or 1 mark for more than 3 months, but less than 6 months, for each academic year subject to a maximum of 15 vide G.O. No.146, Higher Education (F2) Department, dated 01.06.2007."

As per the certificate of experience produced, the petitioner had put in 10 months service as guest lecturer in the academic year 2005-2006. If the period from 01.07.2005 and 31.10.2005 is excluded, then it will account for 6 months. It is also not in dispute that if the candidate had worked as guest lecturer for few days alone in a month, it should be taken as a month's experience. Accordingly, for the academic year 2005-2006, the teaching experience shall be counted as 6 months. In any event, if the 13 days in April 2006 has to be disregarded as it does not cross the half mark in the month, the petitioner is entitled to one mark as any period exceeding 3 months, but below 6 months, should be taken as 6 months.

14. Omitting the petitioner's experience in the academic year 2005-2006, for the succeeding years alone, he was awarded 14 marks counting his experience as 7 years. In the half year's experience for the academic year 2005-2006 is added, then the petitioner becomes entitled to the award of full marks of 15 as he had put in 7½ of teaching experience. Therefore, as rightly contended by the learned counsel appearing for the petitioner, this Court comes to the conclusion that the petitioner has made out a clear case for the award of 15 marks (full marks) for teaching experience based in the undisputed and admitted facts.

15. However, mere attempt was made by the learned Government Pleader to contend that though the petitioner had acquired the M.Phil. degree in October 2005, during the certificate verification, he had informed that the M.Phil. degree was acquired by him in December 2005 and hence, November and December 2005 should be disregarded. Even if such a contention is accepted for the sake of argument, the remaining period namely 3 months and 14 days will qualify the petitioner to claim "1" mark, taking the period as 6 months, since it exceeded 3 months.

16. From a consideration of the above said aspect and also the admitted fact that the petitioner was awarded 9 marks for educational qualification as he possessed Ph.D. and the further fact that he was awarded 7 marks for the interview, the total

marks secured by the petitioner in the selection procedure ought to have been fixed at 15+9+7=31 out of 34. As the cut off marks was admittedly 31 out of 34, the petitioner's name would not have been omitted from the purview of consideration for appointment to the post of Assistant Professor in the B.C. Category, since the failure to award the "1" mark for which he was eligible, he was pushed out of the zone of consideration.

17. In view of the above said finding, this Court hereby directs the 1st respondent to award full marks (15 marks) for teaching experience to the petitioner, take his total score in the process of selection as 31 out of 34, consider his name for appointment to the post of Assistant Professor in Business Administration in Tamil Nadu Collegiate Education Service and issue appointment order.

18. In the result:

(a) this writ petition is allowed;

(b) the 1st respondent is directed to award full marks (15 marks) to the petitioner for his Teaching Experience;

(c) the 1st respondent is directed to take the petitioner's total score in the process of selection as 31 out of 34 marks and consider his name for appointment to the post of Assistant Professor in Business Administration;

(d) the said exercise shall be done within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-)

//True Copy//

vs
To

Sub Assistant Registrar

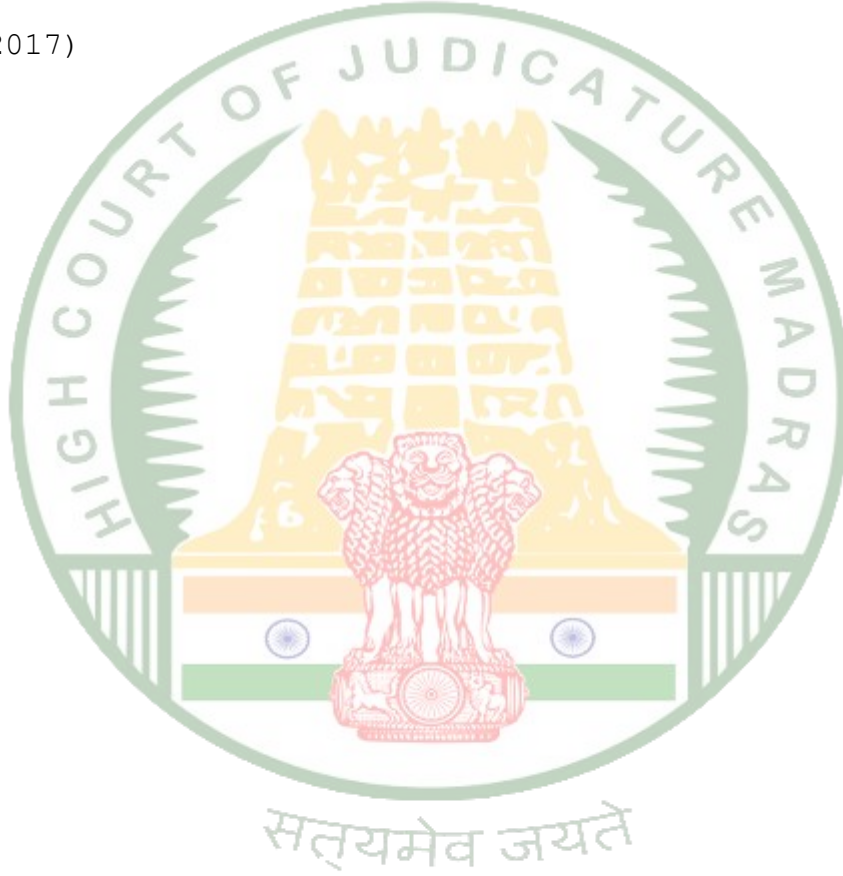
1. The Chairman,
The Teacher Recruitment Board,
4th Floor E.V.K. Sampath Building,
DPI Campus, College Road,
Chennai - 600 006.

2.The Director of Collegiate Education,
DPI Campus, College Road,
Chennai - 600 006.

+1cc to Mr.G.SANKARAN, Advocate, S.R.No. 86238

Pre-Delivery order made in
W.P.No.34844 of 2013 and
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