

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.12.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.No.34702 of 2012

Senthil

.. Petitioner

Vs.

1.The Chairman,
Teacher's Recruitment Board,
College Road,
Chennai - 600 006.

2.The Director,
Director of Technical Education,
Chennai - 25.

3.The State of Tamil Nadu,
rep. by its Secretary to Government,
Higher Education Department,
Fort St. George,
Chennai - 9.

.. Respondents

Prayer :

W.P.Nos.10605 & 10607 of 2013 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned selection list of candidates for the post of Assistant Professors in Mechanical Engineering Department in Government Engineering Colleges, quash the same and consequently direct the first respondent to accept the petitioner's M.E. Certificate (Computer Integrated Manufacturing under the Faculty of M.E. Mechanical Engineering) and place him in the relevant place in the selection list and appoint him as Assistant Professor in Government Engineering Colleges in the Mechanical Engineering Department as he is having the required qualification.

For Petitioner : Mr.R.Singaravelan
Senior Counsel
for M/s.V.Neethidurai

For Respondents : Mr.K.Venkatramani
Addl. Advocate General
assisted by
Mrs.M.E.Raniselvam
Addl. Government Pleader
for respondents

ORDER

This writ petition has been filed by the petitioner seeking a writ of certiorarified mandamus to call for the selection list of candidates for the post of Assistant Professors in Mechanical Engineering Department in Government Engineering Colleges published by the first respondent and quash the same and consequently, direct the first respondent to accept the petitioner's M.E. Certificate (Computer Integrated Manufacturing under the Faculty of M.E. Mechanical Engineering) and place him in the relevant place in the selection list and appoint him as Assistant Professor in Government Engineering Colleges in the Mechanical Engineering Department.

2. The case of the petitioner is that pursuant to the notification of the first respondent for calling for applications to fill up Assistant Professor (Engineering / Non-Engineering) for Government Engineering Colleges, the petitioner had applied and attended the examination on 8.4.2012. In the written examination, the petitioner secured 127 marks out of 190 marks and was placed in the 4th rank all over the State. Thereafter, the petitioner was called for certificate verification and he attended the same and also certificates were verified by the officials of the first respondent. However, in the selection list published on 18.10.2012, the petitioner's name did not find place. Challenging the same, the petitioner has filed the writ petition.

3. Denying the averments in the petition, the first respondent filed counter stating that the first respondent is not an authority to decide whether M.E. in Computer Integrated Manufacturing, which the petitioner studied was related to M.E. in Mechanical Engineering in the absence of any Government Order to this effect. It is stated that as the petitioner did not possess the requisite or equivalent qualification as per Clause 4[B(i)] of the notification, he was not eligible for further selection. The P.G. degree in Computer Integrated Manufacturing was not declared to be related to M.E. in Mechanical Engineering. It is also stated that the petitioner has no vested or indefeasible right to demand the first respondent

Board to select and appoint him as Assistant Professor in Mechanical Engineering. Since the entire recruitment process attained finality, the petitioner cannot seek to re-open the recruitment process.

4. The learned Senior Counsel appearing for the petitioner submitted that the non-selection of the petitioner in the impugned selection is against the guidelines of the AICTE, IIT and Anna University, Chennai. He submitted that in M.E. Mechanical Engineering, there were 34 approved optional courses available and Computer Integrated Manufacturing was one among the 34 courses. The petitioner is fully eligible to get the post of Assistant Professor in Government Engineering College as per the existing guidelines.

5. The learned Senior Counsel argued that though the petitioner secured 127 marks in the written examination and he being Most Backward Community, he was not selected and prayed for quashing of the impugned selection list.

6. Per contra, the learned Additional Advocate General submitted that since the petitioner did not possess the requisite qualification in the relevant branch of Engineering / Technology with first class or its equivalent either in B.E. or B.Tec or M.E. or M.Tec., he was not selected. He argued that the petitioner has no vested right to demand the first respondent to select and appoint him as Assistant Professor in Mechanical Engineering.

7. The learned Additional Advocate General submitted that mere participation in the certificate verification would not give right to the petitioner to claim selection and appointment.

8. I heard Mr.R.Singaravelan, learned Senior Counsel for M/s.V.Neethidurai, learned counsel for the petitioner and Mr.K.Venkatramani, learned Additional Advocate General assisted by Mrs.M.E.Raniselvam, learned Additional Government Pleader appearing for the respondents and also perused the materials available on record.

9. There is no dispute that the first respondent issued notification dated 11.2.2012 inviting applications for the written competitive examination for direct recruitment to the posts of Assistant Professor (Engineering / Non-Engineering) in Government Engineering Colleges for the year 2012 and the written examination was held on 22.4.2012.

10. The petitioner, who belongs to MBC category, had participated in the written examination and had secured 127 marks. In the tentative list of candidates called for

certificate verification, the name of the petitioner finds place at Serial No.4 and he had attended the certificate verification held on 21.7.2012. While the petitioner waited for appointment with fond hope, the first respondent released the list of candidates selected for the post, wherein his name was not found place. The reason for non-selection was the petitioner does not possess requisite qualification.

11. In Paragraph 4(B) of the Notification dated 11.2.2012, calling for applications for the post of Assistant Professor, it has been stated as under:

"B.EDUCATIONAL QUALIFICATION:

(ii) Assistant Professor in Engineering Subjects :
Candidates should possess the following qualifications on the date of Notification viz., 11.02.2012.
B.E. or B.Tech. and M.E. or M.Tech. in the relevant branch of Engineering or Technology with First Class or its equivalent either in B.E. or B.Tech. or M.E. or M.Tech."

12. Thus, the educational qualification requiring for filling up of the post of Assistant Professor is "B.E. or B.Tech. and M.E. or M.Tech. in the relevant branch of Engineering or Technology with First Class or its equivalent either in B.E. or B.Tech. or M.E. or M.Tech.". The notification does not specifically state branches of Engineering. It simply states branch of Engineering.

13. The learned Senior Counsel for the petitioner submitted that there are 34 approved optional courses available in Master of Engineering degree like M.E. (Engineering Design); M.E. (Industrial Engineering); M.E. (Computer Integrated Manufacturing); M.E. (Internal Combustion Engineer) etc. and the petitioner had studied one among 34, i.e., M.E. (Computer Integrated Manufacturing) and had produced the certificate issued by the Anna University showing that he was possessing Degree of Master of Engineering in Computer Integrated Manufacturing under the Faculty of Mechanical Engineering in First Class.

14. On the other hand, the learned Additional Advocate General submitted that the first respondent is not the authority to decide whether M.E. in Computer Integrated Manufacturing, which the petitioner studied, was related to M.E. in Mechanical Engineering and the writ petition is misconceived one. There is no force in the submission of the learned Additional Advocate General.

15. In Paragraph 7 (Minimum Qualification) of the prospectus annexed to the notification, it has been stated as under:

Post	Qualification
Assistant Professor (Engineering Subjects) [Civil, Mechanical, EEE, ECE, EIE, Computer Science and Engineering, Production Engineering, Metallurgy, Information Technology and Industrial Bio-Technology]	B.E. or B.Tech. and M.E. or M.Tech. in the relevant branch of Engineering or Technology with First Class or its equivalent either in B.E. or B.Tech. or M.E. or M.Tech.

16. Thus, the requisite qualification for selection to the post of Assistant Professor (Engineering subjects) is B.E. or B.Tech. and M.E. or M.Tech. in the relevant branch of Engineering or Technology with First Class or its equivalent either in B.E. or B.Tech. or M.E. or M.Tech.

17. It is seen from the typed set of papers that in the year 2000, the petitioner had completed B.E. in Mechanical Engineering in First Class at Madras University. While doing his Under Graduation, he had studied Mechanical Engineering and Madras University issued certificate to that effect.

18. In the Post Graduation certificate issued by the Anna University, it has been stated that "Senthil V has been admitted to the Degree of Master of Engineering in Computer Integrated Manufacturing under the Faculty of Mechanical Engineering having satisfactorily completed the prescribed programme of study through College of Engineering, Guindy, Chennai.". Thus, the petitioner has completed Mechanical Engineering (under the faculty of Computer Integrated Manufacturing) in First Class at Anna University.

19. According to the respondents, the Post Graduation degree in Computer Integrated Manufacturing was not declared to be related to M.E. in Mechanical Engineering and in the absence of any declaration to this effect in favour of the petitioner by the competent authority, the first respondent has no other alternative than to reject the candidature of the petitioner on the ground of having no requisite qualification for appointment as Assistant Professor in Mechanical Engineering.

20. In this connection, it is pertinent to note that when the petitioner sought information under RTI to the National Institute of Technology, Warangal, the said authority, in its reply dated 31.07.2013/02.08.2013 addressed to the petitioner, stated as under:

"With reference to the above, it is to inform you that the information was sent earlier by Registered Post on 27.05.2013, but this was returned as "Unclaimed" (Xerox copy enclosed). However, I am giving below the information sought by you.

1. Whether all the M.Tech., programmes offered under Mechanical Department are relevant subject in Mechanical Engineering as per AICTE article 8.2?
Yes

2. If a person complete M.Tech., in Computer Integrated Manufacturing (CIM) from NIT, Warangal, whether he is eligible to become an Assistant Professor in Mechanical Engineering Department as per AICTE qualifications.
Yes

Yours faithfully,

Sd/- xxx

REGISTRAR I/c"

21. As per the RTI query obtained from the National Institute of Technology, Warangal, if a person complete M.Tech. in Computer Integrated Manufacturing from their Institution, he would eligible to become an Assistant Professor in Mechanical Engineering Department.

22. Paragraph 4 of the impugned Notification contains "equivalent qualification". In paragraph 4(B), it has been stated as under:

"(C) EQUIVALENT QUALIFICATION:

If a candidate claims that the educational qualification in the subject possessed by him/her is equivalent to though not the same as those prescribed for the appointment, he / she has to produce the letter of equivalence issued by the competent authority of the University which has awarded the degree. However, the claim would be subject to the decision of the Equivalence Committee, constituted as per G.O.Ms.No.441, P & AR (R) Department, dated 20.12.1993 and the decision of the Government.

The candidate should have obtained the equivalence certificate on or before the last date for submission of the application form. The same should be produced at the time of Certificate

Verification without fail; otherwise, the selection will be summarily rejected."

23. In the case on hand, the first respondent had not questioned the qualification of the petitioner when the application was processed. Even at the time of calling for certificate verification also, the first respondent has not raised any objection regarding the Post Graduation degree obtained by the petitioner. After certificate verification, when the petitioner enquired, he came to know that he was not selected on the ground that he did not possess requisite qualification.

24. At this juncture, it is to be pointed out that it is the bounden duty of the first respondent to scrutinise the application of candidate immediately when it reached and only after seeing the educational qualification, age etc. have been in tact, then only the authorities should process the application further. But in the case on hand, the first respondent allowed the petitioner to attend upto the certificate verification and thereafter, only they have not selected the petitioner on the ground that he did not possess the requisite qualification.

25. It is apposite to point out that having acquired qualification of B.E. Mechanical Engineering, Post Graduation M.E. degree in Computer Integrated Manufacturing and secured 127 marks in the written examination and also attended the certificate verification, the petitioner cannot be denied of selection on the ground that he did not possess requisite qualification.

26. In the letter dated 19.10.2012, the Centre for Academic Course, Anna University, stated that M.E. degree in Computer Integrated Manufacturing awarded to the petitioner can be considered equivalent to M.E. (Manufacturing Engineering). The said letter reads thus:

"With reference to the above, it is informed that the M.E. degree in Computer Integrated Manufacturing (CIM) degree awarded to Mr.V.Senthil by the College of Engineering, Anna University, Chennai can be considered equivalent to M.E. (Manufacturing Engineering) offered under the Faculty of Mechanical Engineering for Employment purpose as the subject content in M.E. (Computer Integrated Manufacturing) is similar to that of M.E. in Manufacturing Engineering programme offered in Anna University, Chennai."

27. On 22.10.2012, the petitioner sent a representation to the second respondent enclosing the relevant copies of letters,

including the aforesaid letter of the Anna University, dated 19.10.2012, requesting to consider M.E. (Computer Integrated Manufacturing) as P.G. course under the Faculty of Mechanical Engineering and to give appointment to him. Despite receipt of the representation dated 22.10.2012, the second respondent has not considered the same.

28. When the Anna University stated that M.E. degree in Computer Integrated Manufacturing can be considered equivalent to M.E. (Manufacturing Engineering), the respondent authorities ought to have consider the claim of the petitioner.

29. Nothing prevented the Teachers Recruitment Board or Director of Technical Education to wrote a letter to the Anna University to know that whether M.E. degree in Computer Integrated Manufacturing is equivalent to M.E. (Manufacturing Engineering). Admittedly, in the case on hand, the respondents 1 and 2 have not done so. Though, there is a delay in obtaining equivalence letter from the Anna University by the petitioner, the delay cannot put against him. Being a meritorious candidate and having secured 127 marks in the written examination, the claim of the petitioner has to be favourably considered by the respdent authorities. The respondents authorities cannot take a plea that there was a delay on the part of the petitioner in getting the equivalence certificate and submit the same to them. Since the claim of the petitioner is bonafide, it has to be considered sympathetically by the respondent authorities.

30. It is well settled that grant of equivalence and/or revocation of equivalence is an administrative decision which is in the sole discretion of the authority concerned, and the Court has nothing to do with such matters.

31. Though the matter of equivalence was decided by Experts appointed by the Government and the Court does not have expertise in such matters, when competent authority of the University issued a letter of equivalence in favour of the petitioner, the Court cannot shut its eyes to examine the said letter. To disprove the letter dated 19.10.2012 of the Anna University, the respondents 1 and 2 have not produced any material.

32. As stated supra, the petitioner was possessing Degree of Master of Engineering in Computer Integrated Manufacturing under the Faculty of Mechanical Engineering, which shows that he acquired qualification in Mechanical Engineering and the said qualification is to be treated as M.E. in Mechanical Engineering.

33. Considering the first rank in his community and over all fourth rank in the merit list, the claim of the petitioner is to be considered by the respondent authorities sympathetically and if the petitioner was considered in the selection list, no prejudice would be caused to persons already selected since when the writ petition was admitted on 21.12.2012, the learned Single Judge of this Court passed the following order:

"Any selection made to the post of Assistant Professor in Mechanical Engineering Department in Government Engineering College 2011-2012, pursuant to the notification, is subject to the result of the writ petition. Notice."

The said interim order has not been vacated so far and the same was in operation.

34. As stated supra, the writ petition was admitted as early as on 21.12.2012 and it is pending for nearly 5½ years, but no steps have been taken by the respondent authorities to ascertain the factual position, if they are having any doubt over the P.G. degree obtained by the petitioner, by getting the same clarified by the Equivalence Committee. No proceedings of the Equivalence Committee to the contrary has been produced to hold that the qualification of M.E. degree in Computer Integrated Manufacturing possessed by the petitioner was not equivalent qualification. In the said circumstances, this Court finds that the petitioner is entitled to succeed.

35. Though grant of appointment to the petitioner is within the domain of the Executive Authorities/Government, when the petitioner has made out his case for entitlement in the selection process by producing materials, this Court is of the view that it will be appropriate to direct the respondent authorities to consider the claim of the petitioner by accepting the M.E. certificate in Computer Integrated Manufacturing under the Faculty of M.E. Mechanical Engineering and select the petitioner and to give appointment to him.

36. For the foregoing discussions, the writ petition is allowed. The respondent authorities are directed to appoint the petitioner as Assistant Professor in Mechanical Engineering in any one of the Government Engineering College by accepting the M.E. certificate (Computer Integrated Manufacturing) under the Faculty of M.E. (Mechanical Engineering) by placing him in the appropriate place of selection list on a par with the impugned selected candidates and give benefits for promotional and pensionary benefits for the period of five years. The said exercise shall be done by the respondent authorities within a period of four weeks from the date of receipt of a copy of this

order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vs

To

1.The Chairman,
Teacher's Recruitment Board,
College Road,
Chennai - 600 006.

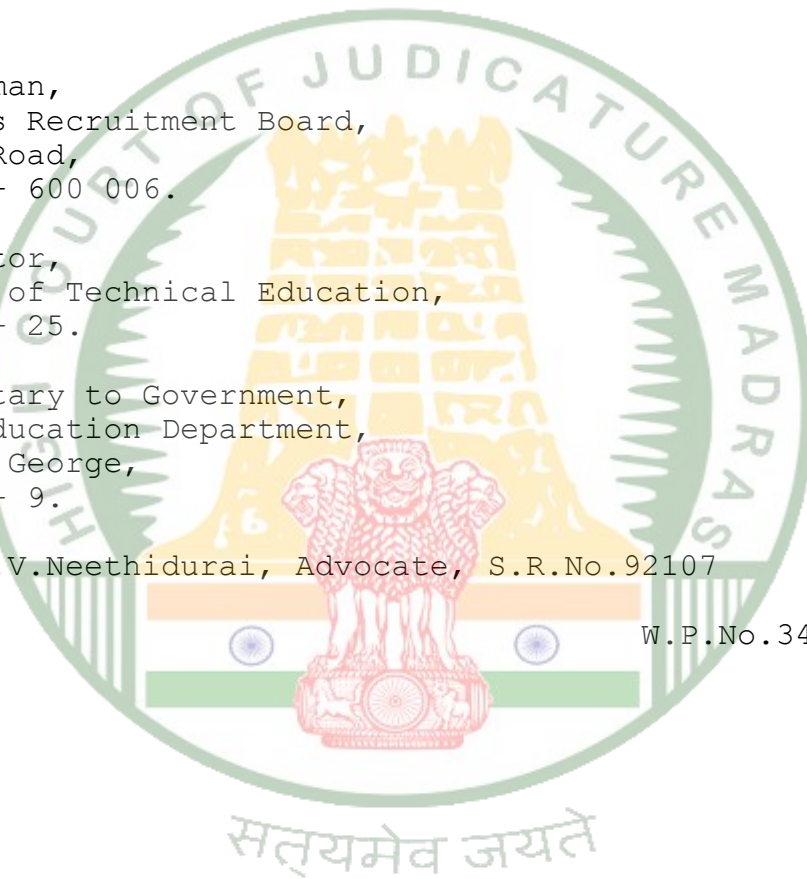
2.The Director,
Director of Technical Education,
Chennai - 25.

3.The Secretary to Government,
Higher Education Department,
Fort St. George,
Chennai - 9.

+1cc to M/s.V.Neethidurai, Advocate, S.R.No.92107

W.P.No.34702 of 2012

CS/04/07/18



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