



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.[MD].No.258 of 2017
and
C.M.P.(MD).No.2663 of 2017

1.The State of Tamil Nadu
Rep by its Secretary,
Department of School Education,
Secretariat, Chennai.

2.The Chairman,
Teachers Recruitment Board,
Fourth Floor, EVK Sampath Maligai,
DPI Compound, College Road,
Chennai 6.

: Appellants/Respondents

Vs.

1.Devi Bala Vasuki
2.The Registrar,
Madurai Kamaraj University,
Palkalai Nagar, Madurai 21.

: Respondents/Petitioners

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 21.01.2013 made in W.P.(MD).No.16704 of 2012, on the file of this Court.

Prayer in WP(MD)No.16704/2012:- Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the communication issued by the 2nd Respondent in his proceedings Nil dated Nil and quash the same as illegal and consequently direct the respondents to select and appoint the petitioner for the post of P.G. Assistant (English) within the period that may be stipulated by this Honourable Court.

For Appellant

: Mr.VR.Shanmuganathan
Special Government Pleader

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondent

No.1 : Mr.D.Shanmugaraja Sethupathi



JUDGMENT

[Judgment of the Court was made T.S.SIVAGNANAM, J.]

Heard Mr.VR.Shanmuganathan, learned Special Government Pleader, takes notice for the appellants and Mr.D.Shanmugaraja Sethupathi, learned counsel appearing for the first respondent. By consent, the Writ Appeal itself is taken up for final disposal at the stage of admission.

2. This Writ Appeal is directed against the order dated 21.01.2013 made in W.P.(MD).No.16704 of 2012.

3. The first respondent herein filed the said Writ Petition challenging the proceedings issued by the second appellant herein and for a direction to the appellants to select and appoint the first respondent/Writ Petitioner for the post of PG Assistant [English].

4. The issue, which was raised in the Writ Petition, was as to whether the degree obtained by the first respondent/Writ Petitioner, namely, B.A., Communicative English is recognized as equivalent to B.A., English for the purpose of employment in public service. The learned Single Judge took into consideration the Government Order issued in G.O(1D).No.333, Higher Education Department, dated 27.11.2012 and directed the appellants to consider as to whether the said Government Order applies to appointment of Teachers. It was further directed by the learned Single Judge that if the Government takes a decision that it would apply to the Teachers also, the first respondent/Writ Petitioner shall be accommodated in any of the vacancies, which remain unfilled.

5. In our considered view, the direction issued to the appellants was to consider the scope and effect of the Government Order issued in G.O(1D).No.333, Higher Education Department, dated 27.11.2012. Therefore, we fail to understand as to why the appellants have preferred the present Writ Appeal. Be that as it may, the first respondent/Writ Petitioner has been now working and it appears that salaries have been paid to her. However, the learned Special Government Pleader appearing for the appellants submits that the very same issue came up for consideration in other cases as well, wherein positive directions were issued, which necessitated the appellants to file the appeals in all those cases and that is the reason why, the appellant was constrained to file Writ Appeal in the instant case also.

6. Be that as it may, we are required to consider the legal issue which has been raised before the Court, namely, as to whether the Government Order, treating two degrees as equivalence, should be given prospective effect or should relate back to the

date on which the educational qualification was acquired by the concerned candidate. The issue involved in this Writ Appeal is no longer *res integra* and has been decided by the Hon'ble Full Bench of this Court in Nadar Thanga Shuba Laxman, A. Vs. The State of Tamil Nadu and another reported in 2014 (2) LW 881 and also by the Hon'ble Division Bench of this Court in the case of the State of Tamil Nadu and Others Vs. S.Padmavathi & others reported in (2014 (2) L.W 893.

7. The said decision of the Hon'ble Full Bench was considered by the Hon'ble Division Bench of this Court in the case of Secretary to Government Vs. K.Rajesh Kumar, [W.A.(MD).No.1283 of 2016, dated 22.09.2016], wherein after referring to the decisions of the Hon'ble Full Bench and the Division Bench, the Writ Appeal filed by the Government was dismissed. At this stage, it would be beneficial to refer to the operative portion of the Judgment of the Division Bench, which reads as follows:-

"10. The primordial question arises for consideration in this Writ Appeal is that whether the equivalence in respect of the Degree 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

<https://hcservices.ecourts.gov.in/hcservices/redirect?>

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



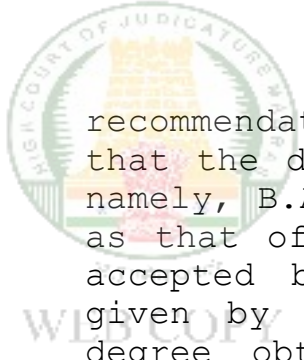
"To put it as an illustration, if 'A' acquires a degree - B.A in English and Communication on 01.01.2010, the said degree, having been considered as equivalent to B.A. Degree in English by the Equivalence Committee constituted by the Government by a Government Order, dated 01.01.2012, the same cannot 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".

8. In the light of the decisions, referred to above, it is crystal clear that once a degree/diploma/certificate is issued, the same shall have its validity only from the date of issuance by the University concerned or educational institution and not from the date of issuance of the Government Order, accepting the



recommendation of the Equivalence Committee. It is not in dispute that the degree obtained by the first respondent/Writ Petitioner, namely, B.A., Communicative English has been treated as equivalent as that of B.A., English Degree by the Equivalence Committee and accepted by the Government. Thus, following the interpretation given by the Hon'ble Full Bench, the equivalence of the said degree obtained by the first respondent/Writ Petitioner shall relate back to the date, on which the degree certificate was issued by the University concerned.

9. For the reasons stated above, the appellants have not made out any case to interfere with the order passed by the learned Single Judge and therefore, the Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub-Assistant Registrar

To

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

2.The Chairman,
Teachers Recruitment Board,
Fourth Floor, EVK Sampath Maligai,
DPI Compound, College Road, Chennai 6.

+One cc to Mr.D.Shanmugaraja Sethupathi, Advocate, SR.No.16355

NB

RL/4C/5P/SKN/6.4.2017

JUDGMENT MADE IN
W.A.[MD].No.258 of 2017

21.03.2017