



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN
Writ Appeal (MD) No.343 and 344 of 2017
and
CMP (MD) No. 3342 to 3344 of 2017

1.The Commissioner

Most Backward and Denotified Communities
Welfare Department,
Ezhilagam, Chennai - 600 05

2.The Joint Director,
Kallar Reclamation,
Madurai,

: Appellants in Both appeals
Vs.

K.Ramya
P. Prabu

: Respondent in W.A. 343/17
: Respondent in W.A. 344/17

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the orders dated 02.12.2016 passed in W.P.(MD). No.17248 and 17249 of 2016 respectively.

Prayer in WP(MD). 17248/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari to call for the records of the 2nd respondent herein in his proceedings in Na.Ka.No.H3/56412/2012-02 dated 08.09.2016 and to quash the same.

Prayer in WP(MD). 17249/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari to call for the records of the 2nd respondent herein in his proceedings in Na.Ka.No.H3/56412/2012-01 dated 08.09.2016 and to quash the same.

For Appellants : Mr.V. Muruganandham
Additional Government Pleader

For Respondents : Mr.Anand C. Chandra Sekar
for Sarvabhauman Associates.



COMMON JUDGMENT

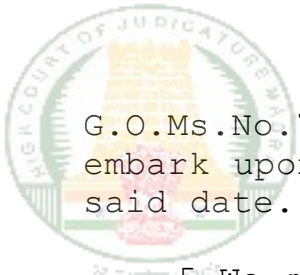
[Judgment of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.V.Muruganandham, learned Additional Government Pleader appearing for the appellants and Mr.Anand C. Chandra Sekar learned counsel appearing for the respondent.

2. These writ appeals are filed against the orders dated 02.12.2016 passed in W.P.(MD).No.17248 and 17249 of 2016 respectively. The respondents/Writ Petitioners challenged the orders passed by the second respondent dated 08.09.2016, by which their services were terminated on the ground that the basic degree possessed by the Writ Petitioners namely B.Sc., Bio Chemistry is not equivalent to B.Sc., Chemistry and the Government has declared in G.O.Ms.No.254 dated 22.05.1998 that B.Sc., Bio Chemistry awarded by Bharathiyar University alone is equivalent to B.Sc., Chemistry for appointment of any public service and the Equivalence Committee constituted by the Government did not recommend the qualification of B.Sc., Bio Chemistry to that of B.Sc., Chemistry in any other University and this recommendation was accepted and G.O.Ms.No.72 Higher Education Department dated 30.04.2013 was issued and therefore, the writ petitioners do not possess the requisite qualification.

3.What is important to note is that G.O.Ms.No.72 dated 30.04.2013 has not been specifically stated to have retrospective effect. Admittedly, the names of the writ petitioners were sponsored by the Employment Exchange during the year 2009 - 2010. After certificate verification, they were considered and appointed to the post, which they are functioning at present. Probation has been declared and it is stated that the writ petitioners were adjudged as best Teachers and awards were given to them. In this factual scenario, the learned Single Judge held that G.O.Ms.No.72, dated 30.04.2013 cannot be made retrospective operation to not suit the writ petitioners.

4.One more factor to be taken note is that both the writ petitioners acquired B.Ed., degree in Chemistry from the Bharathiyar University. At the time when they are admitted to the said course, the Bharathiyar University was satisfied that they possessed requisite qualification. In other words, Bharathiyar University admitted them to the course considering the B.Sc., Bio Chemistry to be equivalent to that of B.Sc., Chemistry. If the interpretation given by the appellants are to be accepted at this juncture, then, there may not be a situation, where it has to be held that B.Ed in Chemistry obtained by the writ petitioners from Bharathiyar University itself could not be valid. Furthermore, there would be several such cases in the State of Tamil Nadu, where such appointments have been made prior to



G.O.Ms.No.72 dated 30.04.2013. Therefore, the appellants cannot embark upon an exercise of review of such appointments before the said date.

5. We may also observe that it is the University which has to approach the Government seeking for orders on equivalence. The individual candidates cannot approach the Government and request them to declare as to whether or not two courses are equivalent. Therefore, if the University, in which the writ petitioners obtained the degree qualification viz., Madurai Kamarajar University do not approach the Government/Equivalence Committee for declaring the courses as equivalent, persons, who have underdone the course cannot be put to prejudice. When the writ petitioners having been given public employment and having functioned for six years, at this juncture cannot be sent out of service. Thus, in our considered view that the learned Single Judge was perfectly justified in allowing the writ petitions. Hence, no grounds are made out for entertaining these appeals. Accordingly, the writ appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CS I)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner

Most Backward and Denotified Communities
Welfare Department,
Ezhilagam, Chennai - 600 05

2. The Joint Director,
Kallar Reclamation,
Madurai.

+1cc to M/S THE SPECIAL GOVERNMENT PLEADER, SR.NO.52483

+1cc to Mr.G.Chandrasekar, Advocate, SR.51854

+1cc to M/S Sharvabhuman Associates, SR.51904

Writ Appeal (MD) No.343 and 344 of 2017
and
CMP (MD) No. 3342 to 3344 of 2017
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ARUL/DSK

kk/JC-SAR4-02.05.2017-3P-6C