

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Reserved on : 22.03.2017****Pronounced on : 05.06.2017**

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CORAM :**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN****Writ Petition(MD)No.2987 of 2013**

R.Anitha Rani

... Petitioner

Vs.

1. The Teacher Recruitment Board,
Rep by its Chairman,
Chennai 6.

2. The Joint Director of School Education,
(Personnel),
Chennai 6.

3. The Chief Educational Officer,
Ramanathapuram District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus, to call for the records, pertaining to the order passed by the third respondent in his proceedings in Na.Ka.No.9911/A5/2012, dated . 01.2013 and quash the same and direct the respondents to permit the petitioner to join in service as per the appointment order dated 10.12.2012.

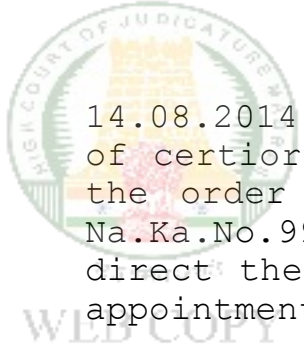
(Prayer amended as per order dated 14.08.2014 in M.P(MD)No.1 of 2014)

For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mrs.S.Bharathi,
Government Advocate.

ORDER

The petitioner originally filed this writ petition seeking a writ of mandamus directing the respondents to permit her to join services at Government High School, Nambuthalai, Ramanathapuram District, on the basis of the appointment order dated 10.12.2012. Subsequently, the impugned proceedings dated 24.01.2013 served on the petitioner and hence, she sought amendment of the prayer in the writ petition which was allowed on



14.08.2014 and thereby the writ petition was converted into a writ of certiorarified mandamus, to call for the records pertaining to the order passed by the third respondent in his proceedings in Na.Ka.No.9911/A5/2012, dated 24.01.2013 and to quash the same and direct the respondents to permit her to join service as per the appointment order dated 10.12.2012.

2.The petitioner had completed S.S.L.C in April 1991 and H.Sc., in March 1993. She has obtained under graduate degree in B.Sc., (Home Science) in April 1997. During November 2000, the petitioner completed M.A.(History) through distance education programme of Madurai Kamaraj University. She had obtained B.Ed qualification in December 2009. Thereafter, she got B.A.(History) in April 2012. **The duration of the course in B.A.(History) was between 2007 and 2010.** She has also passed the Teacher Eligibility Test conducted by the Teachers Recruitment Board, Chennai in the supplementary examination held in 2012. The petitioner was called for certificate verification which was done on 07.11.2012. Thereafter, counseling was held on 09.12.2012 and an appointment order was issued to her on 10.12.2012. Upon receipt of the same, she reported to join duty in the office of the third respondent, namely, the Chief Educational Officer, Ramanathapuram District.

3.Claiming she was not allowed to join duty, she had filed this writ petition with original prayer seeking a mandamus. Subsequently, she has been served with the proceedings of the third respondent dated 24.01.2013, in and by which, she was informed that since her degree in B.A.(History) is not a valid degree, she was not allowed to join duty. As already stated, after the service of the impugned proceedings, dated 24.01.2013, she sought to amend the prayer which was allowed by this Court on 14.08.2014.

4.The primary contention of the petitioner is that only after verification of her certificate, the first respondent, namely, the Teachers Recruitment Board had issued appointment order to her and therefore, they are not justified in refusing to allow her to join duty on the ground that the under graduate degree in B.A (History) obtained by her is not a valid degree .

5.I have heard Mr.V.Panneerselvam, learned counsel for the petitioner and Mrs.S.Bharathi, learned Government Advocate for the respondents.

6.The third respondent, namely, the Chief Educational Officer has filed a counter affidavit stating that since the undergraduate degree in B.A.(History) was obtained after the post graduate degree in M.A. (History), the same being a reverse degree, the petitioner is not qualified for appointment as a teacher. It is also contended that the petitioner has undergone both B.Ed., and B.A., at the same time viz., B.Ed., during the



academic year 2008-2009 and B.A (History) during 2007-2010. Based on the above facts, it is also contended that it is a dual degree and therefore, it is not valid. According to the respondents, it is only because of the fact that the petitioner is ineligible to be appointed as a teacher, she was not allowed to join duty.

7.The petitioner has produced the certificates relating to her educational qualifications. A perusal of the same, shows that she has obtained degree in B.Sc., (Home Science) in April 1997 and M.A.(History) in 2001. Thereafter, she has joined B.Ed., and in December 2009, she has been conferred with B.Ed., degree through the Indira Gandhi National Open University. After obtaining B.Ed., degree realising that her bachelor's degree and the post graduate degree being in different subjects, she will not be entitled to get appointment as a teacher, she chose to do B.A. (History) again under the distance education programme of the Madurai Kamaraj University. She took the examination in April 2010 and results were published on 13th September 2012 and ultimately, a Bachelor's degree in History was conferred on her on 05.11.2012 by the said university.

8.The short question that arises for consideration based on the above pleadings is that whether the petitioner is qualified for appointment as a teacher in the Government High School.

9.In S.Jagadeeswari Vs.The Chairman, Teachers Recruitment Board, Chennai in W.P.No.30299 of 2012, this Court had considered the required qualifications for being appointed as graduate teacher. In the said case, on facts it was found that the petitioner therein, who had completed B.Sc., Degree in May 2001 took a Post Graduate Degree in M.A.English in May 2003 and thereafter, she joined B.A.(English) at the Annamalai University and had appeared for examination in B.A.(English) in May 2011 through distance education. She had also completed her B.Ed., degree during the academic year 2009-2010 as a regular candidate.

10.The facts in the case on hand are also similar. The petitioner has obtained M.A.(History) first and thereafter did her B.Ed. After completing B.Ed., she had obtained B.A.(History) during the year 2012. Till the year 1999, candidates with different subjects in undergraduate and post graduate were appointed as post graduate assistants. But the Government in G.O.Ms.No.361, Education, dated 31.12.1999 took a decision not to appoint such candidates who had obtained post graduation and undergraduate qualifications in different subjects which are generally called as cross majors. Therefore, the candidates who had completed post graduate degree in a different subject underwent undergraduate course under distance education and managed to obtain a bachelor's degree in the same subject in which they had already obtained post graduate degree.



11.Hon'ble Mr.Justice V.RAMASUBRAMANIAN while considering the effect of such undergraduate degrees which are obtained after post graduate degrees, has observed as follows:

"11.Thus, at every stage, there has been a wild goose chase for the Executive and the Judiciary, to curtail shortcut invented by candidates for the purpose of securing employment. The first shortcut route invented by undergoing Post Graduate Degrees in different subjects was curtailed by G.O.Ms.No.361, Education dated 31.12.1999. The second short cut method of acquiring Post Graduate Degrees without even taking shelter in a school on rainy days, was curtailed by the decision in Annamalai University, followed by G.O.Ms.No.107, P&AR Department, dated 18.08.2009. The practice of acquiring additional Degrees in completely unrelated subjects, after undergoing courses of a duration of one year was curtailed by this Court in R.Thirunavukkarasu.

12.Now this is the next category of cases where persons seek to acquire two different Degrees during the same academic year, for the purpose of overcoming the mischief sought to be undone by the aforesaid Government Orders and judgments. This has fortunately been nipped in the bud by the Teachers Recruitment Board by taking a stand even at the threshold that the Degrees obtained to the same academic year, would not be recognised."

12.After referring to the importance of quality education, after the advent of Right of Children to Free and Compulsory Education Act, 2009, the learned Judge has observed as follows:

"19.But, unfortunately for the petitioner, I am not today concerned about the validity of the Degree so obtained, for any purpose other than that of seeking appointment to the post of Teachers. The Resolution passed by the Expert Committee of the University Grants Commission, did not deal with the issue of the eligibility of candidates who undergo two courses simulataneously for appointment to various posts. I have extracted the Resolution of the Expert Committee in the preceding paragraph. The Expert Committee was not at all concerned with the question of appointment and the eligibility of those qualifications for appointment."

13.In **R.Thirunavukkarasu Vs.State of Tamil Nadu** reported in **2012 (5) CTC 129**, this Court had held that the undergraduate ~~degree~~ course of one year cannot be held to be equivalent to regular undergraduate degree which has a course duration of three years. The appointments and promotions of



B.T.Assistants who had obtained such dual degrees were set aside by this Court. In Thirunavukkarasu's case, this Court had discussed the entire law relating to the recruitment of teachers including the regulations issued by NCTE as well as UGC. This Court had also pointed out that the Tamil Nadu Elementary Education Act, 1920 which is almost 97 years old now has to be revisited regarding the qualifications considering the scientific advancement as well as the mushrooming growth of different universities offering different varieties of degrees in various new subjects also. The prospectus of the universities is almost like a menu of a restaurant where there are several items with same ingredients.

14.The claim of the petitioner has to be looked into in the light of the judicial pronouncements referred to above.

15.This Court in S.Jagadeeswari's case had pointed out that there are three short cut methods adopted by the candidates for entering into services as teachers and all the three have been sorted out either by way of Government Orders or by way of judgments. The present case will be a fourth category where the candidate acquires post graduate qualification in one discipline in the year 2001 and acquires a undergraduate qualification in the same discipline, almost after 10 years, in the year 2012. This could be called a reverse degree. Apart from acquiring a reverse degree, it is seen from the records that the petitioner has undergone both B.A.(History) in Madurai Kamaraj University during 2007 to 2010 and B.Ed., during December 2009 through distance education programme in Indira Gandhi National Open University. Therefore, it is clear that the petitioner has undergone two different courses at the same period. Thus, the case of the petitioner would fall under both the categories namely, dual degree as well as the reverse degree.

16.The petitioner would contend that the Teachers Recruitment Board has clarified that there is nothing on wrong in the candidates undergoing two different graduation courses during the same academic year in different time tables in different universities. The said clarifications have been issued for promotions. I have my own doubt as to whether the same would be applied for initial appointment also. However, even assuming that the petitioner does not incur a disqualification because of the fact that she had underwent B.Ed., as well as B.A.(History) during the same time, the other contention of the respondents that she has obtained M.A.(History) first and thereafter, she had pursued B.A.(History) only after 10 years would definitely, in my considered opinion, disqualify the petitioner from seeking appointment as graduate teacher. Therefore, I do not find any illegality or infirmity in the impugned proceedings dated 24.01.2013, in and by which, the third respondent refused to grant permission to the petitioner to join duty as a graduate teacher.



17. In fine, the writ petition is dismissed. However, there will be no order as to costs.

Sd/-

Assistant Registrar (AD-II)

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Sub Assistant Registrar

To

1. The Teacher Recruitment Board,
Rep by its Chairman,
Chennai 6.
2. The Joint Director of School Education,
(Personnel),
Chennai 6.
3. The Chief Educational Officer,
Ramanathapuram District.

+1cc to Mr.V.Panneer Selvam, Advocate Sr.No.58966

SMS

VB/MR/SAR3/12.06.2017/6P/5C

Order made in
Writ Petition (MD) No.2987 of 2013
05.06.2017