

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2017 of 2018

and

W.M.P.Nos.2528 and 2529 of 2018

A.P.Anand

.. Petitioner

Vs.

1. The Tamil Nadu Public Service Commission,
Rep. by its Secretary to Government,
Chennai-3.
2. The Director of Technical Education,
No.53, Sardar Patel Road, Guindy, Chennai-25.
3. The Anna University, Rep. by its Registrar,
Sardar Patel Road,
Guindy, Chennai-25.
4. The Tamil Nadu State Council for
Technical Education,
Lady Willington College Campus,
Kamarajar Salai, Triplicane,
Chennai-600 005.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of Resolution of 57th Meeting of the Equivalence Committee, dated 26.12.2017 (signed on 27.12.2017) of the first respondent and to quash the same with consequential direction to the respondents to issue an Equivalence Certificate to the effect that the B.E. Production Engineering (Sandwich) Course is equivalent to Mechanical Engineering Course for the purpose of employment in Public Services within time frame.

For Petitioner : Ms.K.Jenitha

For Respondents: Dr.M.Devendran for R-1

Mr.A.Raja Perumal, Addl.G.P. for RR-2
& 4

Mr.M.Vijayakumar for R-3

ORDER

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records of Resolution of 57th Meeting of the Equivalence Committee, dated 26.12.2017, signed on 27.12.2017 of the first respondent and to quash the same with consequential direction to the respondents to issue an Equivalence Certificate to the effect that the B.E. Production Engineering (Sandwich) Course is equivalent to Mechanical Engineering Course for the purpose of employment in Public Services within time frame.

2. The case of the petitioner is that he is a B.E. Graduate in Production Engineering (Sandwich), which is a full-time five year programme, approved by the AICTE, which is equivalent to regular four-year Production Engineering. In the Resolution passed by the Equivalence Committee of the first respondent-TNPSC in its 57th meeting constituted for considering the equivalence in respect of both the courses for the purpose of employment in public services, held on 26.12.2017, the Equivalence Committee has recommended that B.E. (Production Engineering) (Sandwich Course) and B.E. (Mechanical Engineering), are not equivalent. It is further stated by the petitioner that all the subjects in both the courses are exactly the same, apart from nine industrial training with additional practical exposure and shop floor training. Learned counsel for the petitioner relied on G.O.Ms.No.183, Personnel and Administrative Reforms (R) Department, dated 06.06.1995, in which, it is stated that B.E. (Production Engineering) and B.E. (Industrial Engineering) awarded by the Universities in Tamil Nadu, be treated as an equivalent qualification to the B.E. Degree in Mechanical Engineering for the purpose of employment in all Government Departments and other organisations in the State of Tamil Nadu. According to the petitioner, when once the B.E. (Production Engineering) and B.E. (Mechanical Engineering) are treated as equivalent courses, the Equivalence Committee of the first respondent/TNPSC ought to have given equivalence status in respect of both the courses.

3. Learned counsel for the petitioner contended that with regard to equivalence status of both the courses, there is recommendation by the Director of the Centre for Academic Courses, Anna University, Chennai, by letter dated 26.02.2018, addressed to the Member Secretary of the Tamil Nadu State Council for Technical Education, in which it is stated that after comparing the B.E. (Mechanical Engineering) (Sandwich) and B.E. (Production Engineering) (Sandwich), the overall approximately 90% of syllabi is common for both the courses and it was also

observed that minimum 75% of the syllabi should be common to give equivalence, and it is further recommended therein that it is possible to consider B.E. Production Engineering (Sandwich) as equivalent to B.E. Mechanical Engineering (Sandwich), for the employment purpose.

4. Learned counsel for the first respondent-TNPSC, by filing counter affidavit, contended that the decision was taken by the Equivalence Committee on 26.12.2017 in its 57th meeting and the Committee, after perusing the expert opinion, has observed that both the said courses are not equivalent, since the similarity was only upto 62%. Learned Standing Counsel appearing for the first respondent/TNPSC further submitted that the Equivalence Committee, only after perusing the expert opinion, has observed that both the said courses are not equivalent, since the similarity in syllabi should be minimum 75%. Learned counsel for the first respondent also drew the attention of this Court to the order passed by this Court in W.P.No.29837 of 2017, dated 11.01.2018, filed by the very same petitioner for, more or less, similar relief, i.e. "for issuance of a Writ of Mandamus "to direct the respondents to issue an Equivalence Certificate to the effect that B.E. Production Engineering (Sandwich) course is equivalent to Mechanical Engineering course for the purpose of employment in public services and also to direct the first respondent-TNPSC to permit the petitioner to participate in the recruitment for public service, which has the qualification of Mechanical Engineering till the decision is taken by the Equivalence Committee". The relevant portion of the said order dated 11.01.2018 in W.P.No.29837 of 2017, reads as follows:

"2. When the matter is taken up for hearing, the learned counsel for the petitioner submits that the prayer of the petitioner to treat the educational qualification of B.E. Production Engineering (Sandwich) Course, awarded by P.S.G. College of Technology, Coimbatore as equivalent to Mechanical Engineering Course for the purpose of employment in Public Services, has become nullity, in view of the Resolution of the 57th Meeting of the Equivalence Committee. In support of his submission, he has also produced a copy of the said Resolution dated 27.12.2017 before this Court.

3. In view of the submission so made by the learned counsel for the petitioner, this Court is of the view that nothing survives for adjudication in this writ petition. Hence, the writ petition is dismissed as infructuous. No costs."

5. Learned Standing Counsel appearing for the first respondent/TNPSC referred to the relevant portion of the letter addressed by the Director of the Centre for Academic Courses, Anna University, Chennai, dated 26.02.2018, stated supra, which reads as follows:

"The comparative statement of B.E. Mechanical Engineering and B.E. Production Engineering (Sandwich) curriculum semester wise is given below:

Semester	B.E. Production Engineering (Sandwich)
I	Same as Mechanical Engineering
II	16% different from Mechanical Engineering
III	16% different from Mechanical Engineering
IV	33% different from Mechanical Engineering
V	33% different from Mechanical Engineering
VI	83% different from Mechanical Engineering
VII	50% different from Mechanical Engineering
VIII	33% different from Mechanical Engineering
IX	84% different from Mechanical Engineering (GE2021 Environmental Science and Engineering in 5th Semester)
X	100% different from Mechanical Engineering

6. In the said letter dated 26.02.2018, it is also stated by the Director of the Centre for Academic Courses, Anna University, that, "while comparing all the I to X Semesters with B.E. Production Engineering (Sandwich) with B.E. Mechanical Engineering (I to VIII Semesters) approximately 55% of syllabi common for both the courses. However, after comparing the B.E. Mechanical Engineering (Sandwich) and B.E Production Engineering (Sandwich), is Overall approximately 90% of syllabi is common for both the courses (Minimum 75% of the syllabi should be common to give equivalence)."

7. Though it is the contention of the learned counsel for the petitioner that major discipline of Mechanical Engineering is equivalent to Production Engineering (Sandwich), in reply, the learned counsel for the first respondent contended that the experts of the technical subject concerned are competent to give opinion and only based on the expert opinion, the Equivalence Committee passed Resolution stating that the above said two degrees/courses are not equivalent.

8. It is stated in the counter affidavit of the first respondent that the Government, after considering the recommendation of the Equivalence Committee, issued orders in G.O.Ms.No.66, dated 12.04.2018, declaring that B.E. Production Engineering (Sandwich) degree is not equivalent to B.E. Mechanical Engineering.

9. Heard both sides and perused the materials available on record.

10. The petitioner has come forward with the present Writ Petition for the second time for similar relief. Even though, in paragraphs 9 and 10 of the affidavit filed in support of the present Writ Petition, the petitioner has mentioned about the earlier order of this Court, dated 11.01.2018 in W.P.No.29837 of 2017, it is seen that the relief sought for by the petitioner in the said Writ Petition and the present Writ Petition, is almost one and the same. Hence, the petitioner's relief is hit by the principle of Res-Judicata.

11. Even though the petitioner has not challenged the Resolution of the 57th meeting of the Equivalence Committee of the TNPSC in the earlier Writ Petition in W.P.No.29837 of 2017, the relief sought for by the petitioner in that Writ Petition and the present Writ Petition, appears to be one and the same. Further, the petitioner has also not sought for any liberty in that Writ Petition to challenge the said Resolution.

12. That apart, the said Resolution was produced before the Court while hearing W.P.No.29837 of 2017, and it was submitted by the learned counsel for the petitioner before the Court while disposing of that Writ Petition that in view of the said 57th meeting's Resolution, the relief sought for in that Writ Petition has become infructuous. Recording the said submission of the learned counsel for the petitioner, in the said order dated 11.01.2018, extracted supra, the learned Judge has disposed of the Writ Petition stating that nothing survives for adjudication in that Writ Petition, which was dismissed as having become infructuous.

13. Even though the petitioner has relied upon the letter dated 26.02.2018 of the Director of the Centre for Academic Courses, Anna University, Chennai, discussed supra, it is evident from the counter affidavit of the first respondent that the Government, only after considering the recommendation of the Equivalence Committee, issued G.O.Ms.No.66, dated 12.04.2018, declaring that B.E. (Production Engineering (Sandwich)) Degree is not equivalent to B.E. (Mechanical Engineering). Therefore, the latest G.O.Ms.No.66, dated 12.04.2018 holds the field and will prevail over the earlier G.O.Ms.No.183 stated

above and the said recommendation made by the Director of the Centre for Academic Courses in the letter dated 26.02.2018.

14. Further, the Director of the Centre for Academic Courses, Anna University, Chennai, has not made any remarks with regard to the petitioner's contention that the All India Council for Technical Education has issued Notification, dated 28.04.2017, framing the Regulations, namely "All India Council for Technical Education (Major/Core Branch of Engineering/Technology and their relevant/appropriate courses leading to degree in Engineering/Technology) 2017", for recruitment to teaching positions. Though the said courses are not treated as equivalent for the purpose of employment, yet they are construed as equivalent only for the purpose of teaching, as is evident from the said Notification issued by the All India Council for Technical Education, dated 28.04.2017 while framing the said Regulations. Since both the courses could be treated as equivalent only for the purpose of teaching as is evident from the said Notification, dated 28.04.2017 briefing therein the subjects in both the courses, which are more or less similar, it is open for the petitioner to take teaching as his profession, if he is otherwise eligible/suitable for the teaching profession.

15. With regard to treating the courses as equivalent, it is worthwhile to quote a decision of the Supreme Court reported in 2008 (3) SCC 432 = 2008 (1) SCC (L & S) 771 (Basic Education Board, U.P. Vs. Upendra Rai and others), wherein the Apex Court held as follows in paragraph 15:

"15. 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. The matter of equivalence is decided by experts appointed by the Government, and the Court does not have expertise in such matters. Hence, it should exercise judicial restraint and not interfere in it."

16. In this case, this Court cannot sit in appeal over the decision of the expert body, as the decision of the expert body was duly considered by the Equivalence Committee of the TNPSC, and only thereafter, the Equivalence Committee has reached a conclusion that both the courses are not equivalent.

17. Thus, the status of equivalence has to be decided only by expert body, that too on technical and academic matters and rightly, relying on the expert opinion, in this case, as

submitted by the learned counsel for the first respondent, the Equivalence Committee has decided that both the courses are not equivalent culminating in passing of G.O.Ms.No.66 stated above.

18. Since the petitioner has come forward with this Writ Petition for the similar relief again, this Court would have made adverse remarks/observations. Taking note of the young age of the petitioner and considering that the future career of the petitioner shall not be affected by any of the observations/remarks of this Court, this Court refrains from making any such observations/remarks against the petitioner in approaching this Court for the same relief more than once.

19. For the reasons stated above, the relief sought for by the petitioner cannot be granted. Accordingly, this Writ Petition is dismissed. No costs. Consequently, W.M.Ps. are closed.

20. Any observation made in this order with regard to the conduct of the petitioner in approaching the Court again and again, is only for the purpose of disposal of this Writ Petition and not for any other purpose and it shall not affect the future career of the petitioner.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

cs

To

The Director of Technical Education,
No.53, Sardar Patel Road, Guindy,
Chennai-25.

+ 1 cc to Mr. M. Vijayakumar, Advocate Sr.33608
+ 1 cc to MR. Dr.M. Devendran, Advocatate SR.37445
+ 1 cc to Ms. K. Jenitha, Advocate Sr.36882
+ 1 cc to Mr.The Government Pleader Sr.36982

W.P.No.2017 of 2018

(CS-VII)
EU(03/07/2018)