

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.243 of 2015
and MP No.1 of 2015

The Secretary
Tamil Nadu Public Service Commission,
Frazer Bridge Road, VOC Nagar,
Chennai 600 003. Appellant

versus

S.M.Subashini Respondent

Appeal filed against the order passed by this Court dated 17.06.2014 passed in WP No.14571 of 2014.

Petition filed under Article 226 of the Constitution of India Praying to issue a Writ of Mandamus Directing the respondent to select and appoint the petitioner (registration No.240105190 (3394) to the post of Junior Assistant in the category of BC (OBCM) or other eligible category including Persons Studied in Tamil Medium (PSTM) category based on the marks secured by the petitioner in the written examination conducted on 25.8.2013 in pursuant to Advertisement No.361 of 2013 dated 14.6.2013 issued by the respondent without reference to the maximum age limit of the petitioner by taking into consideration of B.Lit. Degree acquired by the petitioner as valid degree with all consequential and other attendant benefits.

For Appellant : Dr. M.Devendran
For Respondent : Mr. G.Sankaran

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The challenge in this intra Court Appeal by the Tamil Nadu Public Service Commission is to the order of the learned Single Judge dated 17.06.2014 made in WP No.14571 of 2014. By the said order, the learned Single Judge had allowed the Writ Petition

filed by the respondent seeking issuance of a Writ of Mandamus directing the appellant to select and appoint the respondent to the post of Junior Assistant in the category of BC (OBCM) or other category based on the marks secured by her in the written examination conducted on 25.08.2013 in pursuant to Advertisement No.361 of 2013 dated 14.06.2013.

2. By the advertisement dated 14.06.2013, the appellant had called for applications for the post of Junior Assistants, Bill Collector etc. The respondent had applied for the post of Junior Assistant and also participated in the written examination. However, at the time of verification of the certificates, she was denied appointment on the ground that she was over aged that is she has completed 33 years as against the maximum age limit of 32 years as on 01.07.2013 her date of birth being 08.06.1980.

3. The contention of the appellant Commission before the learned Single Judge was that the respondent though has the prescribed qualification of SSLC pass, her higher qualification viz. Under Graduate Degree in Literature (B.Lit) and the Post Graduation in M.A. obtained by her in 2008-2010 through Open University System cannot be recognised as higher qualification for the purposes of relaxation of the upper age limit. The respondent had completed her SSLC in 1995, though she undertook the Higher Secondary Examination in 1997, she was not successful, she had failed in one subject, viz. Mathematics. However, the appellant had obtained an under Graduate Degree in Literature (B.Lit) in the year 2008 through Open University System and also completed her Post Graduation, viz. M.A. in 2010. The advertisement issued by the appellant prescribes a minimum qualification of 10th standard pass for the post of Junior Assistant. The maximum age limit is 32 years as on 01.07.2013. However, the note appended to the maximum age limit prescribed in the advertisement provides that there is no maximum age limit for candidates belonging to SCs, SC (AS)s, MBCs/DCs, BCs, BCMs and Destitute Widows of all castes who possess a General Educational Qualification, which is higher than the minimum General Educational Qualification, i.e., who have passed PUC/HSC/Diplomo/Degree.

4. Admittedly, the respondent has obtained a degree in Literature in 2008 well before the cut of date. Therefore, Mr.G.Sankaran, learned counsel appearing for the respondent would contend that she having acquired the higher qualification even before the cut of date. She would be entitled to be considered for appointment de hors the fact that she had crossed the upper age limit on the cut of date i.e. 01.07.2013.

5. Dr.M.Devandran, learned counsel appearing for the appellant Commission would contend that the respondent has not completed the formal School Education, i.e. Higher Secondary and

therefore, a Degree obtained by her through Open University system cannot treated as Higher Educational qualification. He would also rely upon the judgment of the Division Bench of this Court in The Chairman, Teachers Recruitment Board, Chennai 6 and another v. V.Kanimozhi, reported in (2014) 8 MLJ 344, wherein this Court had held that only candidates have cleared the Plus 2 and thereafter, obtained the degree can be considered eligible.

6. We do not think that the judgment of the Division Bench in V.Kanimozhi's, case, cited supra, could be applied to the case on hand inasmuch as the facts are totally different. V.Kanimozhi's, case related to recruitment by the Teachers Recruitment Board and the very qualification prescribed is 10 + 2 + 3 viz. a pass in 10th standard, a pass in Higher Secondary and a Degree obtained thereafter. But in the case on hand, the minimum Educational Qualification prescribed in the advertisement issued by the Commission is only pass in 10th Standard. The higher qualification would only be taken for relaxation of the upper age limit. The Degree granted by the Open University have been recognized by the UGC also. We are therefore of the opinion that the Commission was not justified in rejecting the candidature of the respondent for appointment as a Junior Assistant, more so, when she possess is required minimum Educational Qualification and she seeks to rely upon the Degree obtained by her from the Open University only for the purposes of relaxation of upper age Limit.

7. The learned Single Judge has followed the judgment of the learned Single Judge of this Court in WP Nos.13054 of 2011 etc. batch, wherein the learned Single Judge had in a similar circumstance held that the persons who are completed the graduation from the Open University would be entitled to be considered for appointment for the post of Junior Assistant. We are therefore of the considered opinion that the Judgment of the learned Single Judge does not call for interference at our hands.

8. The Intra Court Appeal therefore fails and it is dismissed. However, there will be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

jv

+1cc to Mr.M.Devendran, Advocate SR.No.53393

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GMV (10/09/2018)