

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.1603 of 2017

and CMP No.20962 of 2017

S.Arivazhagan

... Appellant

versus

1. The Chairman

Teachers Recruitment Board,
Chennai 600 006.

2. The Member Secretary,
[School Education]

Teachers Recruitment Board,
Chennai 600 006.

... Respondent

Appeal filed against the order passed by this Court dated 13.03.2014 passed in W.P.No.1843 of 2014.

WP.No.1843 of 2014:Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus Calling for the records relating to the impugned rejection of Direct Recruitment of P.G.Assistant for the year 2012-13 - Tamil Subject in so far as the petitioner is concerned quash the same and consequently direct the respondents to consider the appointment of the petitioner for the post of P.G.Assistant Teacher - Tamil on the basis of the petitioner representation dated 13.1.2014 within the time to be stipulated by this Honourable Court

For appellant

: Mr.S.Jayakumar

For Respondents

: Mr.K.Karthikeyan

Government Advocate

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 is to the order of the learned Single Judge dated 13.03.2014 in WP No.1843 of 2014, in and by which, the rejection of the petitioner's (appellant herein) claim for direct recruitment as Post Graduate Assistant in Tamil was upheld.

2. The facts that led to the filing of the Writ Petition are as follows:

The petitioner (appellant herein) who belongs to Most Backward Community completed his Higher Secondary during the Academic year 2002. Thereafter, he has completed Bachelor of Literature in Tamil from Annamalai University in the year 2008. The petitioner (appellant herein) has completed one year Bachelor of Education course during the year 2010 from Vinayaka Missions University, Salem. The petitioner (appellant herein) had joined M.A.Tamil in the year 2009, but he discontinued the said course, thereafter, he joined B.Ed in the Vinayaka Missions University, Salem on 31.08.2009, after completing B.Ed. in April 2010, the petitioner (appellant herein) got himself readmitted in M.A.Tamil program conducted by the Directorate of Distance Education of Annamalai University on 30.07.2010, he took his first year examinations in M.A.Tamil during 13.12.2010 and the second year examination in M.A.Tamil on 15.12.2011. Eventually, the petitioner (appellant herein) completed M.A.Tamil and was awarded Post Graduate Degree in Tamil by Annamalai University on 04.10.2012. The petitioner (appellant herein) applied for Direct Recruitment of Post Graduate Teachers, during the year 2013, the claim of the petitioner (appellant herein) for appointment was however, rejected on the ground that he had done his Post Graduation and B.Ed simultaneously. Challenging the rejection, the petitioner (appellant herein) has come forward with the above Writ Petition.

3. The learned Single Judge, who heard the Writ Petition, dismissed the same, concluding that the petitioner (appellant herein) has obtained B.Ed. Degree before obtaining M.A. Degree. Therefore, since obtainment of the required qualification is in the reverse order, the same is not acceptable. Yet another reason given by the learned Single Judge is that the petitioner (appellant herein) has done dual courses i.e., B.Ed as well as M.A.Tamil during the same Academic i.e. Year 2009-2010.

4. Aggrieved by the said dismissal, the petitioner (appellant herein) has come forward with this Writ Appeal.

5. We have heard Mr.S.Jayakumar, learned counsel appearing for the appellant and Mr.K.Karthikeyan, learned Government Advocate appearing for the respondents.

6. Before going into the rival claims, it will be pertinent to set out the dates and the period during which the appellant has undergone various courses.

Sl.No .	Class Studied/degrees	Main Subjects	Duration of course	Year of passing
1	10 th Standard	-	-	March 2000
2	12 th Standard	-	-	June 2002
3	B.Lit.	Tamil	3 years	December 2008
4	B.Ed.	Tamil	1 year	April 2009-2010
5	M.A.	Tamil	2 year	2009-2010 discontinued Rejoined 1 st year in 2010-2011 Completed in December 2012

7. From the above tabular column, it could be seen that the appellant has completed B.A.Tamil in December 2008. Though he joined M.A.Tamil in Annamalai University on 25.06.2009, he had discontinued the said course on 29.07.2009 and joined B.Ed.Tamil with Vinayaka Missions University on 31.08.2009, he completed B.Ed. in April 2010. Thereafter, he has rejoined Annamalai University in M.A.Tamil on 29.06.2010. The fact that he has rejoined M.A. Tamil in Annamalai University is borne out by the letter dated 16.07.2010 issued by the Director of Distance Education, Annamalai University. He had taken the first year M.A.Tamil examinations during the month of December 2010 and second year M.A. examinations during the month of December 2011 and he has been awarded a Post Graduate Degree in Tamil on 04.10.2012. Therefore, the claim of the respondents that the appellant has done both B.Ed as well as M.A.Tamil simultaneously during the same academic year does not appear to be correct. The said assumption that the petitioner had done both B.Ed and M.A.Tamil at the same time had occurred due to the mistake in the Transfer Certificate issued by the Annamalai University on 21.03.2012, which shows that the appellant was admitted to the program during the academic year 2009-2010. The fact that the appellant discontinued the program and joined B.Ed. at Vinayaka Missions University in 2009 and after completion of B.Ed., he rejoined M.A.Tamil at Annamalai University was over looked. After the rejection of the appellant's claim by the Teachers Recruitment Board, the mistake in the Transfer Certificate issued by the Annamalai University has been rectified and a fresh Transfer Certificate has been issued on 06.01.2014 by the Director of Distance Education of Annamalai University, wherein the fact that the appellant had discontinued M.A. program in the

year 2009-2010 and rejoined the same during the academic year 2010-2011 was recorded.

8. Apparently, this fact was not brought to the notice of the learned Single Judge, which led to the learned Single Judge concluding that the appellant had done two courses during the same academic year 2009-2010. It is already stated that the learned Single Judge had found against the appellant on two counts, first one is that he had done his B.Ed. Tamil before doing M.A.Tamil. Acquisition of B.Ed. qualification should be after acquiring the Under Graduate qualification. Admittedly, the appellant had acquired Bachelor of Literature in Tamil, even during the year 2008 and he has acquired B.Ed. qualification only during the year 2010. Acquiring a Post Graduate qualification after completion of B.Ed cannot be said to be in the reverse order. Therefore, we are unable to agree with the conclusion of the learned Single Judge to the effect that acquisition of the P.G. qualification after obtaining B.Ed. is in the reverse order.

9. As regards the second ground that the appellant had done two degrees simultaneously in the same academic year, we find that the factual error has crept in, because of the fact that the appellant has discontinued M.A. and joined B.Ed and after completion of B.Ed, he had again rejoined M.A. was not brought to the notice of the learned Single Judge. The dates mentioned in the tabular column supra would show that the appellant had in fact rejoined M.A. after completing B.Ed. in April 2010. Therefore, the claim of the respondents that the appellant has done P.G. and B.Ed simultaneously in the same academic year is factually wrong.

10. In view of the foregoing conclusions, we are constrained to allow the appeal setting aside the order of the learned Single Judge. In the normal course, we should have allowed the Writ Petition in toto, but in view of the subsequent developments, we are constrained to dispose of the appeal with certain directions.

11. Though, there was an order directing one post to kept vacant during the pendency of the Writ Petition, after the dismissal of the Writ Petition, it is stated by the learned Government Advocate, that the said post has also been filled up.

The recruitment for which the appellant had applied is thus over, therefore, the appellant cannot be considered for the said recruitment. Unfortunately for the appellant, he has completed the age of 35 years, which is a maximum age limit, on

29.05.2018. Therefore, the appellant becomes ineligible for appearing in future recruitments. We do not think the appellant should be left high and dry having succeeded in establishing that the rejection of his candidature for direct recruitment as a P.G. Teacher was erroneous. Therefore, we deem it fit to direct the respondents to grant relaxation of upper age limit considering the pendency of the Writ Petition as well as the Writ Appeal.

12. The Writ Petition was filed during January 2014 and the same was disposed of on March 2014, the Appeal was filed on 14.07.2014 and the same was pending till date. Considering the pendency of the case, we direct the respondents to grant relaxation of the upper age limit by four (4) years to the appellant. Thus, the appellant will be entitled to apply for direct recruitment as Post Graduate Teacher in the ensuing recruitments and the respondents are directed to consider his application by relaxing the upper age limit by four (4) years. However, in the circumstances there will be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

jv
To

1. 1. The Chairman
Teachers Recruitment Board,
Chennai 600 006.

2. The Member Secretary, सत्यमेव जयते
[School Education]
Teachers Recruitment Board,
Chennai 600 006.

+2 ccs to Mr.S.Jayakumar Advocate sr 34681
+1 cc to the Govt Pleader sr 35011

W.A.No.1603 of 2017
and CMP No.20962 of 2017

br(co)
aa19/06/2018