

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :05.06.2018

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.Nos.11643 and 14458/2015
and
M.P.Nos.1 and 1 of 2015

W.P.No.11643 of 2015 :

D.Anbu Petitioner

Vs

- 1.The Director,
Directorate of Teacher Education Research
and Training, Now changed as State Council
of Education Research and Training,
D.P.I. Campus, Chennai-6.
- 2.The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Salai,
DPI Compound, College Road,
Chennai-6. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration to declare the action of the 1st and 2nd respondents in rejecting to count the teaching experience of the petitioner from 27.10.2004 to 23.01.2012 as lecturer is illegal and against the Tamil Nadu Educational Rules and Consequently, direct the 1st respondent to issue an order of appointment to the petitioner as Senior Lecturer in pursuant to the Recruitment Notification No.03/2011 dated 31.12.2011 and the Written Examination and Certificate Verification dated 10.4.2015.

W.P.No.14458 of 2015 :

A.Mathivanan ... Petitioner

Vs

- 1.The Director,
Directorate of Teacher Education Research
and Training, Now changed as State Council
of Education Research and Training,
D.P.I. Campus, Chennai-6.

2.The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Salai,
DPI Compound, College Road,
Chennai-6.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration to declare the non-inclusion of the petitioner name in the Provisional Selection List for the post of Senior Lecturer in History by the 2nd respondent is illegal and against the Adhoc Rules relating to Tamil Nadu Teacher Education Service and Consequently, direct the 1st respondent to issue an order of appointment to the petitioner as Senior Lecturer-History in General Turn in pursuant to the Recruitment Notification No.03/2011 dated 31.12.2011 and the Written Examination and Certificate Verification dated 10.4.2015.

For Petitioners : Mr.D.Muthukumar
in both W.Ps.

For Respondents : Mrs.P.Rajalakshmi,
in both W.Ps. Addl. Govt. Pleader

C O M M O N O R D E R

Both the Writ Petitions have been filed seeking a common prayer to issue a Writ of Declaration to declare the non-inclusion of the petitioners' names in the Provisional Selection List for the Posts of Senior Lecturers in Tamil and History respectively by the 2nd respondent as illegal and against the Adhoc Rules relating to Tamil Nadu Teachers Education Service and consequently for a direction to direct the 1st respondent to appoint the petitioners as Senior Lecturers in Tamil and History subjects in the District Institutes of Educational and Training under Directorate of Teacher Education Research and Training.

2. Learned Counsel appearing for the petitioners in both the Writ Petitions submitted that the Chairman, Teachers Recruitment Board, the 2nd respondent herein issued a Recruitment Notification No.03/2011 dated 31.12.2011 inviting applications from the eligible candidates to fill up 34 posts of Senior Lecturers in different subjects. While so, the petitioner, namely, Mr.D.Anbu in W.P.No.11643/2015 has completed 10th Standard in the year 1989 in Tamil Medium, Plus 2 with Mathematics and Science in the year 1991, B.Sc. (Chemistry) during the year 1991-1994 and the Bachelor of Education from the

University of Madras in the year 1995 in which teaching Tamil was one of the subjects and Master of Education (M.Ed.) from Annamalai University during the year 1999-2001. Subsequently, he has also completed B.A. Tamil during May, 2007 from the University of Madras. With these qualifications, the petitioner in W.P.No.11643/2015 was serving as a Lecturer in Tamil at Sri Angalamman Teacher Training Institute for Women, Vadakadambadi, Kancheepuram District-603 104.

3. The learned Counsel for the petitioners further submitted that so far as Mr.A.Mathivanan, the petitioner in W.P.No.14458/2015 is concerned, after completing the 11th Standard in the year 1977 in Tamil Medium, he has completed his PUC with NPC (Natural Science, Physics and Chemistry) in the year 1978. Thereafter, he has obtained B.Sc. Chemistry from Aringar Anna Government Arts College for Men during the year 1979-1982. After completion of his under graduation, he joined M.A. History in University of Madras during 1987 and completed the course during 1989. Thereafter, the petitioner also joined B.Ed. in the year 1990 in Madras University and after completion of the same, he joined M.Ed. and completed the same during May, 1993. Later on, in the year 2008, he has also completed B.A. History. With these qualifications, the petitioner in W.P.No.14458/2015 was also appointed as a Lecturer in Meenakshi Teacher Training Institute, Ethapur, Attur Taluk, Salem District on 20.08.2004 and worked there till 05.01.2010 for a period of 5 years 4 months. Thereafter, he was selected by the 2nd respondent for the post of Lecturer in History at DIET Perundurai, Erode District and appointed by the 1st respondent on 7.1.2010 and till date working in that cadre.

4. While so, the 2nd respondent herein issued a Recruitment Notification dated 31.12.2011 inviting applications from eligible candidates for 34 posts of Senior Lecturers in DTERT/DIET for the year 2010-2011, fixing the last date for receipt of applications as on 23.01.2012 and the date of written examination on 04.03.2012 and also indicating the educational qualifications for the said posts. Both the petitioners have applied for the posts of Senior Lecturers in their respective subjects, namely, Mr.D.Anbu, the petitioner in W.P.No.11643/2015 has applied for the post of Senior Lecturer in Tamil whereas Mr.A.Mathivanan, the petitioner in W.P.No.14458/2015 has applied for the post of Senior Lecturer in History.

5. The learned Counsel for the petitioners also submitted that after scrutinizing all the applications including both the petitioners, the 2nd respondent published the eligible candidates list for Written Examination in which the names of both the petitioners were found as eligible candidates. On receipt of

the Hall Tickets, both the petitioners took part in the Written Examination which was held on 04.03.2012 at Government Girls' Higher Secondary School, Ashok Nagar, Chennai. Thereafter, the 2nd respondent has published the Provisionally Selected Candidates List based on 1 : 1 ratio and both the Writ Petitioners were selected, viz. Mr.Anbu, has obtained 78 marks and selected under B.C. Category whereas Mr.A.Mathivanan has secured 87 marks and selected under General Turn Category.

6. Thereafter, both of them were called for Certificate Verification by the 2nd respondent on 18.06.2012. But, after participating in the Certificate Verification, there was no information from the 2nd respondent for a long time. In the meantime, the petitioners, who were provisionally selected along with others, approached this Court by filing a Writ Petition in W.P.No.4877/2013 seeking a direction that they should be appointed as Senior Lecturers based on the provisional selection list. The said Writ Petition was dismissed by this Court and the appeal preferred against the same was also closed since it was informed to the Bench by the respondents that the Government is going to cancel the very same selection. However, the petitioners were called for fresh round of Certificate Verification on 10.4.2015. Accordingly, they also took part in the Certificate Verification. During Certificate Verification, both the petitioners were informed that they were not qualified to be appointed as Senior Lecturers on the ground that they have not completed five years of teaching experience. In the case of Mr.Anbu, it is stated that he has completed B.A. Tamil only in the year 2007. Similarly, in the case of A.Mathivanan, he has completed B.A. History only during May, 2008. Hence, according to the petitioners, the Teaching Experience will be counted only from the date of completion of B.Ed. is not correct.

7. The learned Counsel for the petitioners further submitted that although, the State Government by way of Government Order No.361 dated 31.12.1999 imposed a condition that the persons who are possessing both under graduate degree as well as post graduate degree in same language can alone be appointed as Language Teachers (PG teachers), the said condition was analysed by this Court in N.K.Geetha vs. The Government of Tamil Nadu rep. by its Secretary, School Education Department, Fort St. George, Chennai-9 and 3 others reported in 2009 (1) CTC 463 and this Court has taken a view that when the statutory rule did not impose any such condition that they should have UG and PG in the same discipline, the said rule cannot be altered by way of the Government Order. On that score, the learned Counsel for the petitioners submitted that when the rule did not specify that possessing UG and PG in the same discipline is mandatory, the respondents cannot impose the same as mandatory for the post of Senior Lecturer. The learned Counsel for the petitioners

also submitted that when this Court has already granted an interim order, directing the respondents to keep one post in each discipline vacant till the disposal of the writ petitions, violating the said direction, the respondents cannot fill up the said posts. Therefore, a Contempt Petition in Cont.P.No.2799/2015 has also been filed.

8. A detailed Counter affidavit has been filed by the 2nd respondent in both the Writ Petitions.

9. Mrs.P.Rajalakshmi, learned Additional Government Pleader appearing for the respondents submitted that the Teachers Recruitment Board issued a Notification dated 31.12.2011, calling for applications from eligible candidates to the posts of Senior Lecturers in the District Institutes of Education and Training (DIET) under the Control of Directorate of Teacher Education, Research and Training, making it clear that the vacancies shall be filled up on the basis of the marks secured in the Written Examination duly following communal reservation. The said Notification also prescribed the following qualifications for the post of Senior Lecturers:

'...5. Qualifications : Minimum Educational Qualifications for the post are as follows:

(a) General Qualifications : The candidate should possess a minimum general qualification defined in Schedule to the General Rule for the Tamil Nadu State and Subordinate Service and M.A./M.Sc., Degree (in 11+1+3+2/10+2+3+2 pattern) with Tamil, English, Mathematics, Physics, Chemistry, Botany, Zoology, History and Geography as major subjects obtained from a recognized University with 50% marks. (Both UG and PG degrees should be in the same subject)

(b) Professional Qualifications : The candidate should possess the following professional qualifications as follows: M.Ed., Degree with 55% marks obtained from a Recognized University. Direct M.Ed., (without B.Ed.,) degree holders are not eligible.

© Teaching Experience of at least 5 years as Lecturer in Directorate of Teacher Education Research and Training/DIET in the State of Tamil Nadu/Recognized Teacher Training Institute.'

10. The learned Additional Government Pleader further stated that since the petitioners have acquired the above said qualifications, they appeared for the written examination held on 4.3.2012. Mr.Anbu who belongs to Backward Class Community secured 78 marks. As against him, one another candidate by name N.Sadatcharavel who belongs to B.C. Community has secured 87 marks in the written examination and hence, he was selected for

the post because cut off marks in B.C. (G) Turn is 87. Moreover, the petitioner in W.P.No.11643/2015 has not possessed the requisite teaching experience because the petitioner Anbu has passed the B.A. Degree in Tamil in May, 2007 only whereas he passed M.A. Tamil in the year 2001. The Educational Qualification of Anbu is given as under :

Educational Qualification	Year of Passing
B.Sc. (Chemistry)	1994
B.Ed.	1995
M.Ed.	1999
M.A. (Tamil)	2001
B.A. (Tamil)	May, 2007

and the Educational Qualification of Mathivanan is given as under:

Educational Qualification	Year of Passing
11 th Standard	1977
P.U.C.	1978
B.Sc. (Chemistry)	1982
M.A. (History)	1989
B.Ed.	1991
M.Ed.,	1993
B.A. (History)	2008

Since Anbu has passed the Under Graduate Degree in Tamil only in May, 2017, the teaching experience rendered by him before attaining the requisite qualification in the relevant subject could not be considered. Accordingly, the total period of teaching experience has been counted w.e.f. the month of passing the U.G. Degree in Tamil viz. from 31.5.2007 to 23.1.2012.

11. Similarly in the case of Mathivanan also, he has completed his B.A. Degree in History in 2008. Hence the experience obtained after 2008 only will be considered and the, total period of teaching experience will be counted from 2008 to 2011 and as the date of notification was on 31.12.2011, he has got only 3 years of teaching experience. Hence, his candidature has been considered ineligible for the post of Senior Lecturer.

12. I find full merit on the submissions made by the learned Additional Government Pleader appearing for the respondents.

13. The educational qualifications extracted as above in the Notification dated 31.12.2011 issued by the 2nd respondent calling for applications for the post of Senior Lecturers in different subjects, show that candidates should possess both Under Graduate and Post Graduate Degrees in the same subject.

Admittedly, when the said Notification categorically prescribing the qualification that the candidates should possess the same subject in their Under Graduate and Post Graduate Degrees, the petitioners if aggrieved, should have challenged the said Notification before participating in the written examination. Secondly, Mr.Anbu has passed B.Sc. Chemistry in the year 1994, B.Ed. in 1995, M.Ed. in 1999, M.A. (Tamil) in 2001, but ironically passed B.A. (Tamil) only in May 2007. Therefore, the respondents are right in counting the teaching experience only from the date on which Anbu has completed his B.A. (Tamil) in May, 2007. As such, the total period of teaching experience has been counted w.e.f. the date of passing the Under Graduate Degree in Tamil i.e. from 31.5.2007 to 23.1.2012, the last date of receipt of the application which comes only to 4 years 7 months and 23 days. Hence, he is ineligible for the post of Senior Lecturer in Tamil.

14. Similarly, the Writ Petitioner Mr.Mathivanan in W.P.No.1445/2018 should have obtained both Under Graduate and Post Graduate Degrees in History Subject before applying for the said post. But, he has completed M.A. History during 1989 whereas B.A. History during 2008. Therefore, during Certificate Verification, the period of teaching experience has been counted w.e.f. 2008 to 2011, as the date of Notification is 31.12.2011 which comes only to 3 years as against the 5 years teaching experience. Hence, both their cases have been rejected. Further, though the learned Counsel for the petitioners relying on the decision of this Court in N.K.Geetha vs. The Government of Tamil Nadu rep. by its Secretary, School Education Department, Fort St. George, Chennai-9 and 3 others reported in 2009 (1) CTC 463 submitted that when the statutory rule contains a specific provision as regards qualification to be satisfied by way of Government Order, such a statutory rule cannot be altered, the learned Counsel for the petitioners has not explained what is the statutory rule that has been altered unlawfully.

15. In the result, both the Writ Petitions fail and the same are accordingly dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

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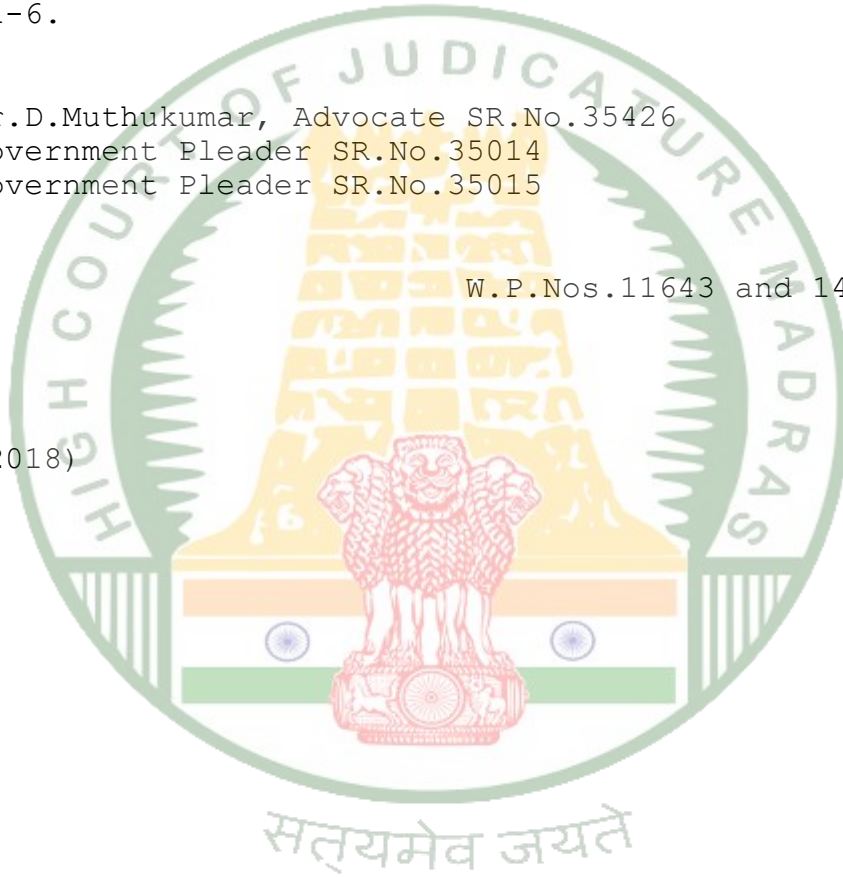
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+1cc to Mr.D.Muthukumar, Advocate SR.No.35426
+1cc to Government Pleader SR.No.35014
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W.P.Nos.11643 and 14458/2015

VBA (CO)
GN (22/06/2018)



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