

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.A.No.1870 of 2018 and CMP.No.14998 of 2018
against WP.No.18903/2018

R.Ghunasekaran ... Appellant/Petitioner

Vs

1. Government of Tamil Nadu
rep. by Secretary to Government,
Law Department,
Fort St. George, Chennai.
2. Teachers Recruitment Board
rep. by Chairman,
E.V.K.Sampath Maligai,
DPI Compound,
College Road, Chennai.
3. The Member Secretary,
Teachers Recruitment Board,
E.V.K.Sampath Maligai,
DPI Compound,
College Road, Chennai. ... Respondents/Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 25.07.2018 made in W.P.No.18903/2018 by a learned Single Judge.

Prayer in WP.No.18903/2018: This writ petition is filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records pertaining to the 3rd respondent Notification No. 2 of 2018 dated 18.07.2018 and quash the same and consequently direct the 3rd respondent to issue the fresh notification with rota-quota by merging with BUSINESS LAW and LAW OF CONTRACTS as one for direct recruitment of Asst. Professor in government law colleges for the year 2017-2018.

For Appellant :: Mr.E.C.Ramesh
For Respondents :: Mr.P.S.Siva Shanmuga Sundaram,
Spl.G.P. for R1
Mr.C.Munusamy,
Spl.G.P. for R2 and 3

JUDGMENT

(Judgment of the Court was pronounced by HULUVADI G.RAMESH, J.)

The Writ Appeal is directed against the order dated 25.07.2018 made in W.P.No.18903/2018 by a learned Single Judge.

2. The said Writ Petition has been filed by the appellant herein challenging the 3rd respondent Notification No.2 of 2018 dated 18.07.2018 and to quash the same and for consequential direction, directing the 3rd respondent to issue a Fresh Notification with rota-quota by merging with Business Law and Law of Contracts as one for direct recruitment of Assistant Professor in Government Law Colleges for the year 2017-2018. The said writ petition was dismissed by the learned Single Judge by order dated 25.7.2018. Aggrieved over the same, the present appeal came to be filed by the appellant/writ petitioner.

3. Heard the learned Counsel on either side and we have also perused the materials available on record carefully.

4. A perusal of the typed set of papers reveals that the appellant has possessed a Bachelor Degree in Corporate Secretaryship along with Bachelor of Law (B.L.) and enrolled as an Advocate in the Bar Council of Tamil Nadu in the year 2006. That apart, he has completed Master of Law (M.L.) in Business Law in the year 2009 and also passed State Eligibility Test for Lecturership Examination in the year 2011. Besides these qualifications, it appears that he has completed Master of Economics and also obtained M.L. Degree. Further, it appears that he has joined as Guest Lecturer in Government Law College, Coimbatore in January 2010 to teach law subjects for the U.G. Courses.

5. While so, the respondents 2 and 3 have issued the Notification dated 18.7.2018 calling for "'Direct Recruitment of Assistant Professors for Government Law Colleges'" in respect of the Branches in Business Law and Law of Contracts. In the said Notification, it has been stated that the candidates who possess M.L./LL.M. Degree in Contracts can apply to the post of Assistant Professor for both Business Law and Law of Contracts. In this regard, it is to be noted that the candidates who possess M.L./LL.M. Degree in Business Law are not eligible to apply for the post of Assistant Professor in Law of Contracts and such candidates are eligible to apply for the post of Assistant Professor in Business Law only. According to the appellant, the subjects covered under M.L. Degree in Law of Contracts and Business Law are one and the same. The same has been clarified by this Court in W.A.No.283/2009 dated 20.03.2009. While so, now the notification has been issued for the post of Assistant

Professor in Business Law and Law of Contracts separately.

6. Now according to the appellant, he has applied for the post of Assistant Professor in Business Law. Therefore, he is seeking relaxation even to consider his case for appointment as Assistant Professor under Contract Law also where six posts have been notified. But the learned Single Judge has dismissed the Writ Petition stating as follows:

'2. The case of the petitioner in this Writ Petition is that, though he possesses Master Degree in Business Law, apprehending that his application for Direct Recruitment of Assistant Professors for Government Law Colleges is not going to be accepted by the Government, he has come to this Court by way of this Writ Petition. Since no decision by the respondents having been taken, the Writ Petition appears to be a misconceived one, inasmuch as, there is no cause of action. Hence, this Writ Petition stands dismissed at the stage of admission. However, it is open to the petitioner, if any substantial cause of action arises in future, to challenge the same. No costs. Consequently, connected Miscellaneous Petitions are closed.'

7. Considering the facts and circumstances of the matter, we are of the view that as a matter of policy decision, University has taken a view to select the candidates who have done the Master Degree in business law as Assistant Professor for Business Law only and not for Contract Law and those who have done their Master Degree in Contract Law as Assistant Professor in both Contract Law and Business Law. But according to the learned Counsel for the appellant, since both these Degrees, namely, Master Degree in Business Law and Master Degree in Contract Law carries the same subjects, the candidates who possessed Master Degree in Business Law to be considered/selected for Assistant Professor in Contract Law also and to modify the rule in this regard.

8. As stated earlier, in each University, there was an Academic Council/Syndicate which will make the policy decision. In such view of the matter, we cannot substitute our opinion that since the subjects in both the degrees are one and the same, candidates who have possessed the Master Degree in Business Law could also be applied for Assistant Professor for Contract Law, for the reasons best known to the policy makers. In that view of the matter, there is no scope for entertaining this appeal. That apart, as held by the learned Single Judge, it is premature to

consider the case of the appellant. However since 12 posts were ear-marked for Business Law Candidates, the appellant can try his luck to be selected under the quota of Business Law.

9. With the above observation, the Writ Appeal stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/--

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. Secretary to Government,
Government of Tamil Nadu,
Law Department,
Fort St. George, Chennai.
2. The Chairman,
Teachers Recruitment Board,
E.V.K.Sampath Maligai,
DPI Compound,
College Road, Chennai.
3. The Member Secretary,
Teachers Recruitment Board,
E.V.K.Sampath Maligai,
DPI Compound,
College Road, Chennai.

+1cc to Mr.E.C.Ramesh, Advocate SR.NO.60458
+1cc to Government Pleader SR.NO.60861, 60891

RJ(CO)
sm:26.9.2018

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