

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.10.2018

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.32536 of 2014

and MP.No.1 of 2014

M.Nester Jeyakumar

...Petitioner

Vs

1.The Chairman

The Teacher Recruitment Board
4th Floor, E.V.K. Sampath Building,
DPI Campus, College Road, Chennai 6.

2.The Director of Collegiate Education,
DPI Campus, College Road, Chennai 6.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider Teaching Experience gained by the petitioner from 17.2.1997 onwards based on appointment in Government Aided Post in St. Xaviers College Palayamkottai in the leave vacancy duly approved by the Department and thereby to award 15 marks as weightage marks for Teaching experience to the petitioner and consequently select and appoint the petitioner to the post of Assistant Professor in Computer Science within a time frame to be fixed by this Court

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.K.Karthikeyan
Government Advocate

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to consider Teaching Experience gained by the petitioner from 17.2.1997 onwards based on appointment in Government Aided Post in St. Xaviers College Palayamkottai in the leave vacancy duly approved by the Department and thereby to award 15 marks as weightage marks for Teaching experience to the petitioner and consequently

select and appoint the petitioner to the post of Assistant Professor in Computer Science within a time frame to be fixed by this Honourable Court.

2. The learned counsel appearing for the petitioner made a submission that the petitioner acquired the qualification of B.Sc (Physics) in the year 1991 and M.Sc(Computer Science) in the year 1995. Subsequently, the petitioner passed National Eligibility Test (NET) on 12.11.2012. Accordingly, he registered his name in the employment exchange for the purpose of securing employment to the post of Assistant Professor in Government Colleges.

3. The grievance of the writ petitioner is that he was serving as a Assistant Professor in the Government Aided post in St. Xaviers College in leave vacancy which was duly approved by the Department. Therefore, he is entitled to get 15 marks as weightage marks for his teaching experience. However, the respondents have not granted 15 marks to the writ petitioner. Thus, the petitioner is constrained to move the present writ petition.

4. The learned Government Advocate appearing on behalf of the respondents made a submission that the writ petitioner is not entitled to get 15 marks for his teaching experience. As per the certificates produced by the writ petitioner, two marks were granted for teaching experience and five marks were granted for educational qualification. Accordingly, seven marks were granted for the writ petitioner at the time of selection process.

5. The learned Government Advocate appearing for the respondents brought to the notice of this Court that the teaching experience was reckoned from the date of acquisition of National Eligibility Test (NET) by the respective candidates and uniformity was being followed while granting marks to teaching experience of the candidates. The candidates who acquired the educational qualification is entitled to get marks for teaching experience as per the guidelines issued by the respondents. Thus, no discrimination was caused to the writ petitioner while awarding marks to the teaching experience.

6. This Court is of an opinion that when the procedure and guidelines are followed by the Department for grant of teaching experience to the teachers, the same is to be granted uniformly. In the

present case, admittedly, uniform procedure has been followed at the time of grant of marks to the teaching experience. This being the factum, the writ petitioner cannot seek indulgence of this Court to award 15 marks as weightage marks for teaching experience. The Court is incompetent to grant such marks contrary to the guidelines issued in this regard by the experts who formulated such guidelines for the purpose of selection of such teaching staff. In respect of experts opinion of the guidelines, the Hon'ble Supreme Court of India in the case of U.P. Public Service Commission v. Rahul Singh reported in 2018 (7) SCC 254 and it is relevant to extract the following paragraphs:

'13. As far as the present case is concerned, even before publishing the first list of key answers the Commission had got the key answers moderated by two Expert Committees. Thereafter, objections were invited and a 26-member Committee was constituted to verify the objections and after this exercise the Committee recommended that 5 questions be deleted and in 2 questions, key answers be changed. It can be presumed that these Committees consisted of experts in various subjects for which the examinees were tested. Judges cannot take on the role of experts in academic matters. Unless, the candidate demonstrates that the key answers are patently wrong on the face of it, the courts cannot enter into the academic field, weigh the pros and cons of the arguments given by both sides and then come to the conclusion as to which of the answers is better or more correct.

14. In the present case, we find that all the three questions needed a long process of reasoning and the High Court itself has noticed that the stand of the Commission is also supported by certain textbooks. When there are conflicting views, then the court must bow down to the opinion of the experts. Judges are not and cannot be experts in all fields and, therefore, they must exercise great restraint and should not overstep their jurisdiction to upset the opinion of the experts.

15. In view of the above discussion, we are clearly of the view that the High Court overstepped its jurisdiction by giving the directions which amounted to setting aside the

decision of experts in the field. As far as the objection of the appellant Rahul Singh is concerned, after going through the question on which he raised an objection, we ourselves are of the prima facie view that the answer given by the Commission is correct.''

7. Regularization in respect of grant of teaching experience and other qualification are fixed with the assistance of the expert committee. This being the factum of the case, this Court cannot grant 15 marks as weightage marks for the teaching experience in violation of the guidelines issued by the respondents in this regard. This being the factum of the case, the writ petitioner has not established any acceptable ground for the purpose of grant of relief as such sought for in the present writ petition.

8. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(Ccc)

//True Copy//

Sub Assistant Registrar

To

1.The Chairman

The Teacher Recruitment Board
4th Floor, E.V.K. Sampath Building,
DPI Campus, College Road, Chennai 6.

2.The Director of Collegiate Education,
DPI Campus, College Road, Chennai 6.

+1cc to Mr.G.Sankaran,Advocate SR.No. 73259

+1 CC TO GOVERNMENT PLEADER SR.NO. 73891

W.P.No.32536 of 2014

ASK(03/12/2018)