

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2018

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.24474 of 2010

and

MP.No.1 of 2010

Seetharamani

... Petitioner

Vs.

1. The Member Secretary,
Teachers Recruitment Board,
Chennai 600 006.
2. The Chief Educational Officer
Tirunelveli.
3. The Employment Officer,
O/o the Employment Exchange,
Kokkirakulam, Tirunelveli District. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to include the name of the petitioner for the post of Computer Teacher in Government/Aided Schools in Tamil Nadu and thereby provide opportunity of Government Employment deserved by the petitioner.

For Petitioner : Mr.M.V.Venkataseshan

For R1 to R3 : Mr.P.Raja, Govt. Advocate

O R D E R

The prayer made in this writ petition is to issue a mandamus, directing the respondents to include the name of the petitioner for the post of Computer Teacher in Government/Aided Schools in Tamil Nadu.

2.In nutshell, the facts of the case are that the petitioner possesses a Master's degree in Physics (M.Sc) and Bachelor's degree in Education (B.Ed.), besides having a Certificate of Post Graduate Diploma in Computer Application, which, according to her, is equivalent to MCA. She is working

as a Computer Teacher in SPIC Nagar Higher Secondary School, Thoothukudi. She also registered her name in the third respondent Employment Exchange as early as on 29.09.1997. While so, she applied for the post of Computer Instructor in Government/Aided Schools, pursuant to the paper publication dated 28.09.2010 made by the first respondent. However, the third respondent has not considered her candidature for want of required qualification for the post in question. Hence, this writ petition.

3. Upon notice, the first respondent filed a detailed counter affidavit, stating inter alia that the petitioner does not possess the required qualification for the post of Computer Instructor, as laid down in G.O.(Ms) No.140, School Education (HS2) Department, dated 19.05.2010 and hence, she is not eligible for appointment to the said post in the Government Higher Secondary Schools.

4. The learned counsel for the petitioner submitted that the petitioner is in possession of the required qualification for the post of Computer Instructor. According to him, the Post Graduate Diploma in Computer Application came to be considered for appointment for the post in question, on an earlier occasion. In support of this contention, he drew the attention of this Court to paragraph 6 of the affidavit filed in support of this writ petition, wherein, two persons, viz., (i) Mrs. Joy, Computer Teacher, Victoria Girls Higher Secondary School, Thoothukudi and (ii) Mr. Mohan, Computer Teacher, Karaipettai Boys Higher Secondary School, Thoothukudi, were included in the selection list for regular appointment, even though they have possessed lesser qualification than that of the petitioner herein. The learned counsel also submitted that now, the petitioner has acquired Master's degree in Computer Application (MCA), which is a superior qualification for the post in question and hence, her candidature has to be considered.

5. On the other hand, the learned Government Advocate appearing for the respondents produced a copy of G.O.(Ms) No.140, School Education (HS2) Department dated 19.05.2010, wherein, the Government prescribed the revised qualification for recruitment to the posts of Vocational Instructors (Computer Science) and Computer Instructors in Government Higher Secondary Schools, which run thus:

- (i) B.Ed Degree along with one of the following Degree qualifications;
- (ii) (1) B.E. Degree (Computer Science); or
- (2) B.Sc. (Computer Science);
- (3) B.C.A; or
- (4) B.Sc. (Information Technology)
- (iii) No upper age limit.

6.This Court considered the submissions made by the learned counsel on either side and perused the records.

7.According to the petitioner, she possesses the highest qualification and also fulfils all the requisite criteria, as per the rules and guidelines meant for appointment to the post of Computer Instructor, however, her candidature was not considered by the respondents.

8.As per the aforesaid Government Order, the qualification prescribed for the post in question is a degree in B.E (Computer Science) or B.Sc. (Computer Science) or BCA or B.Sc (Information Technology) along with a B.Ed. degree. Admittedly, besides B.Ed. degree, the petitioner is in possession of Master's degree in Computer Application, which is a superior qualification for the post in question. The said fact has been fairly admitted by the learned Government Advocate appearing for the respondents.

9.It is to be noted that if a candidate has the highest qualification i.e. Master's degree in Computer Application, it cannot be said that there is any discrimination or arbitrariness in considering his/her candidature, who has a higher qualification and it also does not amount to change in the process of selection, which has been mentioned in the advertisement. Further, his/her candidature cannot be rejected on the ground that he/she did not have the required qualification. Having Master's degree in Computer Application means that the candidate has better knowledge in the Computer Science, which is required for appointment to the post in question. Thus, a better qualified person can never be rejected on the ground that he/she does not possess the required qualification and fulfils the eligibility criteria and the selection of candidates having higher qualification cannot be held to be bad in law.

10.At this juncture, it is pertinent to point out the observation of the Supreme Court in Government of Andhra Pradesh v. P. Dilip Kumar and another [1993 SCC (2) 310], which reads as follows:

"13.....There is nothing arbitrary or unreasonable in the employer preferring a candidate with higher qualification for service. It is well settled by a catenation of decisions that classification on the basis of higher educational qualification to achieve higher administrative efficiency is permissible under our constitutional scheme. [Refer: Roshan Lal Tandon v. Union of India, [1968] 1 SCR 185; State of J & K v. Trilok Nath Koosa, [1974] 1 SCC 19; Md. Sujat Ali v. Union of India, [1975]

3 SCC 76; Roop Chand v. DDA, [1989] Supp. 1 SCC 116; V. Markandaya v. State of A.P., [1989] 3 SCC 191 and Sanatan Gauda v. Berhampur University, [1990] 3 SCC 23].

11. In such view of the matter, this Court is of the opinion that though the qualification of Master of Computer Application does not find place in the said Government Order, the same cannot be slightly brushed aside, while selecting the candidates for the post of Computer Instructor. Hence, this Court feels it appropriate to direct the respondents to consider the name of the petitioner for appointment to the post in question.

12. At this stage, the learned Government Advocate appearing for the respondents fairly submitted that if the petitioner approaches the third respondent with a fresh representation enclosing all the certificates, there will not be any impediment for the third respondent to include her name, whenever a list is called for, for appointment to the post of Computer Instructor and to forward her candidature to the Government, for consideration.

13. Taking into account the above submission made by the learned Government Advocate appearing for the respondents, this writ petition stands disposed of, directing the petitioner to submit a fresh representation along with the required certificates, within a period of two weeks from the date of receipt of a copy of this order. On such submission, the third respondent shall consider the same and pass appropriate orders, by renewing her employment registration with seniority and including her name, whenever a list is called for by the Government, for appointment to the post of Computer Instructor. No costs. Consequently, connected Miscellaneous Petition is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

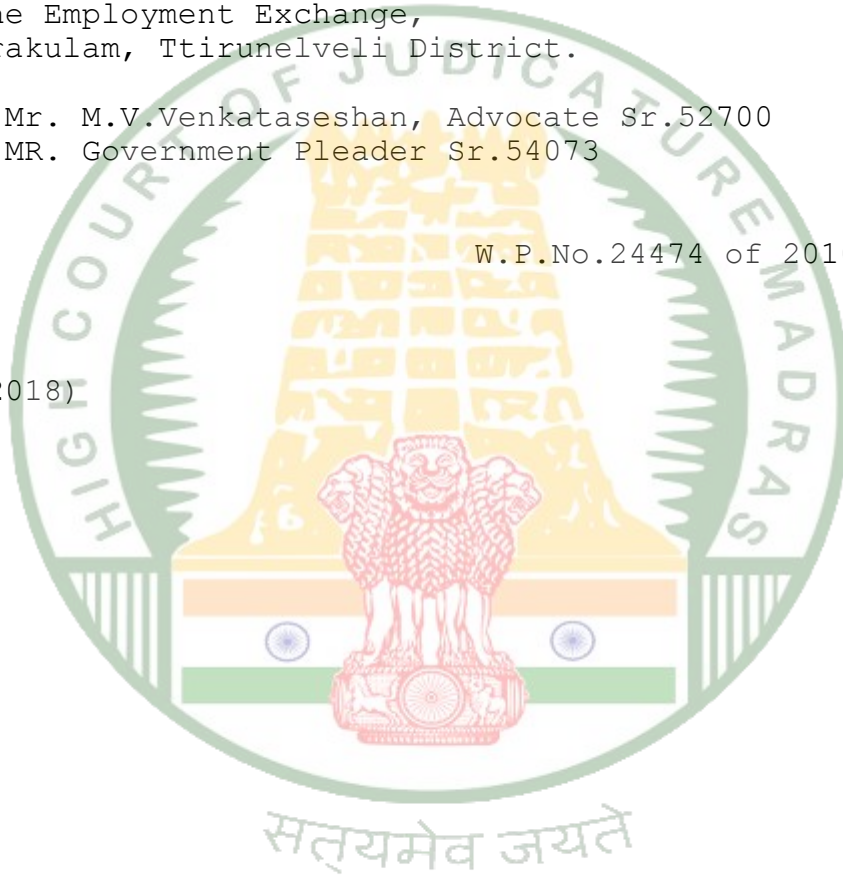
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To

1. The Member Secretary,
Teachers Recruitment Board,
Chennai 600 006.
 2. The Chief Educational Officer
Tirunelveli.
 3. The Employment Officer,
O/o the Employment Exchange,
Kokkirakulam, Tirunelveli District.
- + 1 cc to Mr. M.V.Venkataseshan, Advocate Sr.52700
+ 1 cc to MR. Government Pleader Sr.54073

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EU(13/11/2018)



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