



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **31.10.2018**

CORAM

THE HON'BLE MR. JUSTICE **M.M.SUNDRESH**

and

THE HON'BLE MR. JUSTICE **N.SATHISH KUMAR**

W.A. (MD) No.339 of 2017

G.Uma Maheswari

... Appellant/Petitioner

Vs.

1.The Secretary to Government,
Higher Education (F2) Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

2.The Member Secretary,
Teachers Recruitment Board,
Chennai - 600 006.

... Respondents/Respondents

Prayer in W.A.(MD)No.339 of 2017: Writ Appeal is preferred under Clause 15 of the Letters Patent against the order dated 11.08.2016 passed in W.P.(MD) No.2145 of 2016.

Prayer in WP(MD)No. 2145 of 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to award 15 marks for the petitioner for the experience of the petitioner in the light of the notification of the 2nd respondent in Advertisement No.4/2013 dated 28.5.2013 and as per the orders in WP(MD)No.2274 & 2275 of 2014 dated 11.2.2014 and G.O.Ms.No.502 of the 1st respondent dated 31.12.2015 and consequently direct the petitioners to appoint the petitioner as Assistant Professor in Zoology in any one of the government colleges with all monetary and attendance benefits on par with other eligible candidates.

For Appellant : Mr.F.Deepak

For Respondents 1 & 2 : Mr.VR.Shanmuganathan

Special Government Pleader

J U D G M E N T

[Judgment of the Court was delivered by M.M.SUNDRESH, J.]

The appellant is one among the candidates who applied for the post of Assistant Professor in Government Colleges, in pursuant to the notification dated 28.05.2013. Certificate Verification was done on 25.11.2013. Results were published on 04.12.2013. The



appellant was not selected and therefore a challenge was made before the learned Single Judge. Before the learned Single Judge, it was contended if the qualifications acquired prior to 31.12.1993 is taken into account, the appellant would be eligible for the post. Though the aforesaid contention was accepted by the respondents, particularly in the light of the orders passed by this Court in favour of similarly placed persons, which has become final, the Writ Petition filed by the petitioner was dismissed on the ground of delay and laches. Challenging the same the appellant has filed this Writ Appeal.

2.The learned counsel appearing for the appellant would submit that there is no substantial delay. The appellant has to be treated one in rem. In an earlier occasion this Court in W.P.(MD) Nos.2274 and 2275 of 2014 formed the procedure to be adopted in considering the qualifications. The following is the relevant part of the order passed by this Court on 28.11.2014:

"21.Therefore, the resultant conclusion would be the candidates, who have acquired teaching experience, after acquiring both Post Graduate Degree and M.Phil Degree, should be taken into account for consideration, provided such candidates have acquired M.Phil Degree on or before 31st December 1993. Admittedly, in the present case on hand, both the petitioners have obtained Post Graduate Degree as well as M.Phil Degree prior to 31st December 1993 and thereafter they joined duty as Part Time Lecturers. Hence, I am of the considered view that the above aspects ought to have been taken into consideration by the second respondent at the time of certificate verification held on 14.11.2013 and the second respondent ought to have awarded weightage marks for their teaching experience on the basis of the certificates issued by the Joint Director of Collegiate Education, Trichy.

22.As mentioned above, since both the Corrigendum dated 19.06.2013 and 09.07.2013 regarding the teaching experience have already been withdrawn, the petitioners herein are entitled to get weightage marks for their teaching experience for the periods, as mentioned in their Teaching Experience Certificates. As a matter of fact, it must be mentioned that both the petitioners have obtained Ph.D., Degrees in the year 2013 and 2012 respectively and more than the above, they have acquired M.Phil Degrees also. Therefore, both the petitioners are exempted from obtaining NET/SLET Certificates.

23.In the result, the Writ Petitions stand disposed of, <https://hcservices.mca.gov.in/hcservices/> in the above directions and observations. No costs. Consequently, connected Miscellaneous Petitions are closed."



3.Thus, the aforesaid decision rendered in W.P.(MD) No.2274 and 2275 of 2014 will be applicable to the case of the appellant as well. There is no subsequent notification, which has come into being. There is no law in respect of delay and latches and it is to be found in practise.

4.In such view of the matter, this Writ Appeal is allowed and the order of the learned Single Judge is set aside and the respondents are directed to award marks to the petitioner for her teaching experience as per the notification of the second respondent Board, dated 28.05.2013 and as per G.O.Ms.No.502, Higher Education (F2) Department dated 31.12.2015 and appoint the petitioner as Assistant Professor in Zoology in any of the Government Colleges. No costs.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1.The Secretary to Government of Tamil Nadu,,
Higher Education (F2) Department,
Fort St. George,
Chennai - 600 009.

2.The Member Secretary,
Teachers Recruitment Board,
Chennai - 600 006.

+1cc to Mr.F.Deepak, Advocate Sr.No.93654

SJ

VB/PM/SAR2/27.11.2018/3P/4C

W.A. (MD) No.339 of 2017
31.10.2018