



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD)No.15019 of 2016

and

WMP(MD)Nos.11070 & 11071 of 2016

&

WMP(MD)Nos.12745 & 14972 of 2016

S.Saravanan

... Petitioner

Vs.

1. The Chief Educational Officer,
Pudukottai.

2. The District Elementary Educational Officer,
Pudukottai.

3. The Assistant Elementary Educational Officer,
Avudaiyarkovil, Pudukkottai District.

4.P.Arunkumar

5.A.Dharmaraj

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings in Na.Ka.No.2490/A3/2016 dated 06.08.2016 and Na.Ka.No.2490/A3/2016 dated 06.08.2016 passed by the 2nd respondent in favour of the respondents 4 and 5 herein and quash the same and consequently directing the 2nd respondent to consider the promotion to the petitioner for the post of B.T.Assistant (English).

Prayer amended vide order

dated 21.03.2018 in WMP(MD)No.1339 of 2017.

For petitioner : Mr.Ajmal Khan, Senior Counsel
for Mr.Shnamugaraja Sethupathi

For respondents : Mr.M.Jeyakumar,
Addl., Govt., Pleader for R1 to R3

Mr.Veerakathiravan,
Senior Counsel
for Mr.S.Meltiue for R4 & R5

**ORDER**

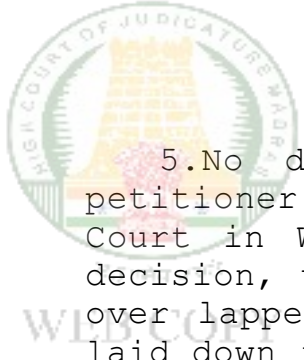
The petitioner joined as a Secondary Grade Teacher in the Panchayat Union Middle School, Allathooru Village, Aavudaiyar Kovil Panchayat Union, Pudukottai District. The petitioner is aggrieved by the promotion granted in favour of the private respondents herein. Two vacancies arose in the post of B.T.Assistant in English. The private respondents herein are senior to the petitioners. However, the case of the petitioner is that the qualifications acquired by the private respondents herein based on which they claimed eligibility for promotion are not recognized. Therefore, this writ petition has been filed.

2.Heard the learned Senior Counsel on either side.

3.The learned Senior Counsel appearing for the petitioner contended that both the private respondents herein had parallely pursued their courses and that therefore the qualifications obtained by them cannot be recognized.

4.The learned Senior Counsel appearing for the private respondents pointed out that the fourth respondent herein completed B.Lit., degree in the year 2006. He joined B.A., degree course under the distance education during the academic year 2009-10. After completing first year B.A., degree course, he discontinued the same and joined B.Ed., course from 01.01.2011 upto 31.12.2012. Thereafter, the fourth respondent re-joined the discontinued B.A. degree course on 08.01.2013. He completed the said course in May, 2015. The learned Senior Counsel for the fourth respondent placed reliance on the decision of this Court in WP.No.41078 of 2015 dated 29.09.2016. In the said case also, the factual matrix is similar. Para 6 of the said order is reads as under :

The petitioner had joined M.A(Tamil) degree course during the academic year 2006 to 2008. But, after completing the first year, he discontinued the M.A. (Tamil) and joined B.Ed., course during the academic year 2007-2008. After completing the B.Ed., course, the petitioner again rejoined M.A.(Tamil) degree course in the second year and successfully completed the said course. Under such circumstances, as contended by the learned counsel for the petitioner, it cannot be termed as dual degree in the same academic years. The petitioner's appointment cannot be rejected on this ground. In this regard, the petitioner has also given a representation dated 17.11.2015 to the first respondent. Hence, I am of opinion that a direction could be given to the first respondent to consider the petitioner's representation and to pass appropriate order.



5.No doubt, the learned Senior Counsel appearing for the petitioner pointed out that there is a contrary decision of this Court in WP(MD)No.26275 of 2015 dated 12.11.2014. In the said decision, this Court took the view that where the courses of study overlapped such degrees cannot be recognized. The proposition laid down in WP.26275 of 2015 is unexceptional.

6.But then, in the present case, the facts placed on record clearly reveal that there was no such overlapping. It is true that the degree certificate issued by the Annamalai University describes the fourth respondent's second year pertains to 2012-2013. But then the fact remains that the fourth respondent joined the discontinued course only on 08.01.2013.

7.Since the fourth respondent cannot be said to have undergone the B.A. degree course parallelly or simultaneously when he pursuing the B.Ed., degree course, this Court is clearly is of the view that the qualification obtained by the fourth respondent cannot be said to be illegal. In this view of the matter, promotion granted in favour of the fourth respondent deserves to be sustained.

8.As regards the fifth respondent, he was appointed as Secondary Grade Teacher on 19.01.2006. After completing his B.Lit., degree, he studied B.Ed., from 2009-11. He joined B.A., English degree course in June 2012. He completed the said degree in December 2017. During the same time, he parallelly took up M.A., degree in Tamil from 2013 onwards. Thus, it is clear that the fifth respondent was pursuing B.A. (English) as well as M.A. (Tamil) simultaneously. Of course for the post of B.T.Assistant in English, B.A.(English) alone is the necessary qualification.

9.The learned Senior Counsel for the fifth respondent called upon this Court to ignore the M.A.(Tamil) degree which he pursued simultaneously. But, this Court is of the view that such simultaneous pursuing of two degree courses would vitiate both the qualifications. Therefore, B.A.(English) degree obtained by the fifth respondent could not have been recognized.

10.In this view of the matter, the promotion granted in favour of the fifth respondent is liable to be quashed. Accordingly, it is quashed. According to the petitioner he is eligible to be promoted to the post of B.T.Assistant (English). The second respondent is directed to consider the case of the petitioner for



11. This writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1. The Chief Educational Officer,
Pudukottai.
2. The District Elementary Educational
Officer,
Pudukottai.
3. The Assistant Elementary Educational
Officer,
Avudaiyarkovil, Pudukkottai District.

+ 2 ccs TO Mr. B. S. Meltiue, Advocate in SR No. 56960

+ 1 cc TO Mr. D. Shanmugaraja Sethupathi, Advocate in SR No. 56824

SKM

AE/SV MMS/SAR3/29.05.2018/4P/7C

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