

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

Review Application No.269 of 2015

R.Rajasekaran .. Petitioner/Petitioner
Vs

1.Government of Puducherry
Rep by its Chief Secretary
Puducherry.

2.Government of Puducherry
Office of the State Project Director (SSA)
Union Territory Mission Authority
Puducherry.

3.The Member Secretary
Sarva Shiksha Abhiyan
Director of School Education
Puducherry.

4.The Central Administrative Tribunal, Chennai Bench
By its Registrar, High Court Buildings
Chennai - 104. .. Respondents/Respondents

Prayer:-Review Application filed under Order XLVII Rule 2 r/w.
Section 114 CPC., praying to review the judgment in W.P.No.21207
of 2015, dated 22.07.2015.

Petition presented to this Court under Article 226 of the
Constitution of India to issue a Writ of certiorarified Mandamus
calling for the records in O.A.1804/ 2013 dated 29.4.2015 on the
file of the 4th respondent Tribunal and quash the same and
consequently direct the 2nd respondent to include the petitioner
in the Select List No.3264/SSA/ Estt/2013 dated 18.12.2013
under Tamil Category and appoint the petitioner to the Post of
Block Resource Teacher and Cluster Resource Center Co-ordinatlor
in Sarva Shiksha Abhiyan under Tamil Category on Contract basis.

For Petitioner : Mr.J.Srinivasa Mohan

For Respondents : Mr.R.Syed Mustafa
(R1 to R3) Special Govt. Pleader (Puducherry)

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The writ petitioner in W.P.No.21207 of 2015, is the review applicant. The present review application is filed to review the order of dismissal dated 22.07.2015, made in W.P.No.21207 of 2015.

2. Facts leading to filing of the review application have been narrated in detail in the order passed in W.P.No.21207 of 2015, which is the subject matter of the present review application and therefore, it is unnecessary to re-state the facts once again in entirety, however it is stated to a limited extent required.

3.1 Mr.J.Srinivasa Mohan, learned counsel appearing for the review applicant/writ petitioner would submit that the petitioner is a degree holder in B.A. Functional Tamil and he has cleared the Teachers Eligibility Test (TET). The second respondent invited applications for filling up the vacancies in Sarva Shiksha Abhiyan. It is the claim of the petitioner that on 29.02.2012, the Directorate of School Education, Puducherry, vide Official Memorandum, offered temporary appointment for the post of Trained Graduate Teacher (Tamil) to the candidates holding Functional Tamil, and the candidates like that of the petitioners were selected and appointed, and once again on 04.09.2012, a similar exercise was done.

3.2 Further, on 28.09.2013, the first respondent has issued a notification calling for applications for appointment of "Block Resource Teachers" on contract basis, under Sarva Shiksha Abhiyan Scheme (in short "SSA Scheme") and the last date for submitting the applications to the said post was on 20.10.2013. It is the claim of the petitioner that on 11.11.2013, the Pondicherry University has issued Equivalency Certificate stating that B.A., Functional Tamil Programme offered at the affiliated College of Pondicherry University is equivalent to the UG Programme of B.A. Tamil Degree offered by any recognized Indian Universities, and this was submitted by the petitioner to the concerned authority in person.

3.3 The third respondent, on 18.12.2013 had notified the provisionally selected candidates for the said post and the petitioner was shocked and surprise to note that his name did not find place in the Provisional Select List.

3.4 Aggrieved by non-inclusion of his name in the Provisional Select List, the petitioner has filed O.A.No.1804 of 2013 before the Central Administrative Tribunal, Madras Bench, on 20.12.2013, and pendency of the same, on 30.12.2013, verification of the certificates of the provisionally selected

candidates was done.

3.5 It is the specific claim of the petitioner that only four candidates were selected out of 10 vacancies in the said post, and 6 vacancies could not be filled by the Authority concerned, as there was no other candidates who had cleared the Teacher's Eligibility Test [TET]. The petitioner has also expressed a grievance that he is the candidate next, available in fifth place to be considered in the list, as he had cleared TET and his further claim was that his candidature was not considered and he has been rejected in the said selection process solely on the ground that he possessed a degree in Functional Tamil, which is not equivalent to regular B.A., Tamil degree.

3.6 It is also stated that on 27.01.2014, another notification came to be issued by the Government of Puducherry for filling up 7 vacancies and the petitioner has filed MA.100 of 2014 in O.A.No.1804 of 2013, praying for appropriate direction, to direct the concerned official respondent to keep one post of the Block Resource Teacher vacant under Tamil category and the Tribunal, vide order dated 24.02.2014, allowed the said application granting an order of interim direction as prayed by the applicant.

3.7 On 04.02.2015, a corrigendum came to be issued that the candidates having the educational qualification of B.A., Degree in Functional Tamil can also apply for the post of Block Resource Teachers / Clusters Resource Center Co-ordinators / Trained Graduate Teachers, in SSA on contract basis. Subsequently, on 01.04.2015, Selection List of seven persons was issued and one candidate namely Ms.Priya, did not join. Be that as it may, on 29.04.2019, O.A.No.1804 of 2013 filed by the petitioner came to be dismissed and challenging the same, the applicant has filed W.P.No.21207 of 2015 before this Court, which has also ended in dismissal, vide order dated 22.07.2015, and to review the said order, the present Review Application is filed.

4. The primordial submission made by Mr.J.Srinivasa Mohan, learned counsel appearing for the review applicant is that before completion of the selection process which took place in the year 2013, the petitioner did submit the Equivalency Certificate and his non-selection was due to the sole reason that the Functional Tamil Degree possessed by the petitioner is not equivalent to the regular B.A. Tamil Degree and thereafter, the concerned official respondent resile from the said stand and subsequently, accepted his qualification, on the basis of the letter issued by the University of Puducherry, and also permitted the petitioner to participate in the subsequent

selection process, but unfortunately, the petitioner could not succeed in the second selection. In sum and substance, it is the stand of the petitioner that inspite of he submitting the Equivalence Certificate issued by the Pondicherry University, on account of wrong and erroneous observation of the authority concerned, the candidature of the petitioner was rejected and as a result, the petitioner has been deprived of getting selected in the selection process, which took place in 2013 and therefore, prays for appropriate orders for his accommodation in the Selection List-2013.

5. Per contra, Mr.R.Syed Mustafa, learned Special Government Pleader (Puducherry) appearing for the respondents 1 to 3, has invited the attention of this Court to the counter affidavit filed in the Original Application and would submit that it not correct to state that pending the selection process, the petitioner has submitted the Equivalency Certificate issued by the Pondicherry University and he further pointed out that during the pendency of O.A.No.1804/2013 before the Tribunal, no specific averments have been made to the said fact. It is the further submission of the learned Special Government Pleader that subsequently a fresh notification has been issued for filling up seven vacancies, followed by which, a corrigendum was issued and selection has taken place during March 2015 and in the selection, a Degree in Functional Tamil was considered to be equivalent to regular B.A., Tamil Degree, but, the petitioner could not be selected on account of non-obtaining the benchmark declared for selection, and would further point out that the SSA Scheme, as of now, is not operational in the Union Territory of Puducherry and would submit that even in respect of filling up the regular vacancies, it could not be filled up recently, due to various litigations prevailing, and on account of subsistence of the interim orders, even the contractual opportunity made, could not be effected. He would further add that the reasons assigned by this Court in the writ petition cannot be said to have assailed for the reason that there is an error apparent on the face of the record, and prays for dismissal of this review application.

6.This Court has considered the rival submissions and also perused the materials placed before it.

7. A perusal and consideration of the materials placed and rival submissions would disclose that the Pondicherry University had issued the Equivalency Certificate on 11.11.2013, in favour of the petitioner, treating B.A., Functional Tamil Degree offered by its affiliated colleges is equivalent to that of the UG Programme of B.A., Tamil Degree Course offered by any other recognized Indian Universities, and that subjects in both the degrees are almost equal, and the claim of the petitioner is

that he did submit the Equivalency Certificate, but, it was not considered. Admittedly, during the year 2013, selection process was conducted and out of the notified 10 posts in Tamil discipline, only 4 candidates alone were selected and despite the fact that the petitioner had cleared TET Examination, his candidature was not considered and has been rejected by the authority, solely on the ground that the degree possessed by him was not equivalent to the regular B.A., Tamil Degree. Subsequently, the official respondents resiled from their stand and took a decision that the Functional Tamil Degree possessed by the candidates are equivalent to the regular B.A. Tamil Degree and though the petitioner participated in the subsequent selection process, he was not selected since he could not reach the cut-off marks.

8. Now the petitioner is aged about 35 years and the learned counsel appearing for the petitioner would also plead that in the event of subsequent selection process, his candidature may be considered, subject to fulfillment of eligibility criteria, excluding his age bar and on the said submission, this Court heard the submissions of Mr. Syed Mustafa, learned Additional Government Pleader (Puducherry), who would submit that he is not having any instruction as to when the next selection process in respect of regular recruitment as well as under SSA Scheme would take place.

9. A perusal of the order dated 22.07.2015 made in W.P.No.21207 of 2015, which is the subject matter for review would also disclose that the learned Judge has observed that the University of Puducherry had opined that B.A., Functional Tamil is just the same as B.A., Tamil, only after the process of selection for the year 2013 was over, and the materials placed would indicate that the petitioner made attempts to submit the Equivalency Certificate even before the selection process was over. It was also observed by the learned Judge, in the order, which is the subject matter of review, that the petitioner cannot be granted any relief, with reference to the selection of the year 2013, as it may sabotage the results of the selection process which had taken place in the year 2014-2015.

10. In the light of the above facts and circumstances, this Court cannot issue any positive direction to accommodate the petitioner along with the selected candidates, with regard to the selection that took place in the year 2013. However, taking into consideration the overall facts and circumstances, especially the fact that the petitioner was issued the Equivalency Certificate as early as 11.11.2013, by the Pondicherry University, this Court directs the respondents concerned to consider the candidature of the petitioner in future selection under Sarava Shiksha Abhiyam (SSA) Scheme as

well as under regular scheme, subject to fulfillment of eligibility criteria and also makes it clear that the age bar cannot be put against the petitioner, if the petitioner is participating in the future selection process.

11. With the above directions, this review application is disposed of. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To:

- 1.The Chief Secretary,
Government of Puducherry
Puducherry.
- 2.Government of Puducherry
Office of the State Project Director (SSA)
Union Territory Mission Authority
Puducherry.
- 3.The Member Secretary
Sarva Shiksha Abhiyan
Director of School Education
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- 4.The Central Administrative Tribunal, Chennai Bench
By its Registrar, High Court Buildings
Chennai - 104.

+1cc to Mr.J.Srinivasa Mohan, Advocate, S.R.No. 85636
(28/01/2020)

Review Application No.269 of 2015

SSD(CO)
GN(20/11/2019)