

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2019

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A.No.671 of 2012
and M.P.No.1 of 2012

- 1.The Government of Tamil Nadu
rep. by its Secretary,
School Education Department,
Fort St. George, Chennai - 9.
- 2.The Director of School Education,
College Road, Chennai - 6.
- 3.The District Educational Officer,
Aruppukottai, Virudhunagar District. ... Appellants

-vs-

- 1.A.P.Dorothy
- 2.The Secretary,
SHN Ethel Harvey Girls Higher
Secondary School,
Sattur, Virudhunagar District. ... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 27.01.2011 made in W.P.No.23234 of 2004, filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus or any other writ, order or direction calling for the records relating to the order of the 2nd Respondent issued in Na.Ka.No.59116/W/29/99 dated 12.07.2004 and quash the same and direct the Respondents to approve the Petitioner's appointment as P.G. Assistant (Economics) in the 4th Respondent school from 07.08.1998 with Salary and other benefits forthwith.

For Appellants : Mr.P.Raja,
Govt. Advocate

For Respondents : Mr.K.Sathish Kumar for R1
Ms.P.Mahalakshmi for R2

JUDGMENT

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

This writ appeal is directed against the order of the learned single Judge (as she then was), who, while setting aside the order under challenge in the writ petition, was pleased to direct the appellants to approve the appointment of the persons from the date of original appointment - 07.08.1998.

2.The impugned order was passed by the appellants on two grounds. First is with respect to the degree obtained from the Open University system in the Annamalai University and the second is the subject being different, as the requisite qualification is only at the post graduate level. Learned single Judge (as she then was) placing reliance upon the earlier decisions of this Court and distinguishing the Apex Court judgment in Annamalai University rep. by its Registrar Vs. Secretary to Government, Information and Tourism Department and Others ((2009) 4 SCC 590) being applicable only for promotion, allowed the writ petition and hence the appeal.

3.On the insistence upon the Master's degree in the same subject as that of a bachelor's degree, the issue has already been dealt with by the Division Bench of this Court in The Director of School Education, College Road, Chennai and Others Vs. Geldon Wilfred Viola and another (2009 (2)TLNJ 101). Though there was an amendment to the Rule subsequently on the relevant date, the Rule prescribes the subject in the Master's degree alone. Therefore, at the time of appointment of the first respondent, the subsequent Rule was not in force. In such view of the matter, the issue having been covered by the decision referred supra, the contention of the appellants stand rejected.

4.Coming to the other issue, as rightly held by the learned single Judge (as she then was), even for the private employment, the very same appellants recognised such a degree. The judgment of the Apex Court came into being subsequently, which was rightly taken into consideration by the learned single Judge, is not applicable to the case on hand. Therefore, the contention of the appellants that it can be applied only to the public employment and not for otherwise cannot be countenanced. It is the question of recognising the degree at the relevant point of time. In such view of the matter, the other contention

raised is rejected. Accordingly, we do not find any merit in the writ appeal and the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

mmi

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
School Education Department,
Fort St.George,
Chennai - 9.
2. The Director of School Education,
College Road, Chennai - 6.
3. The District Educational Officer,
Aruppukottai,
Virudhunagar Dist.

+1cc to Mr.K.Sathish Kumar, Advocate, S.R.No.3479
+1cc to M/s.P.Mahalakshmi, Advocate, S.R.No.3601
+1cc to the Government Pleader, S.R.No.3984

ppa (CO)
kak (27/02/2019)

W.A.No.671 of 2012

सत्यमेव जयते

WEB COPY