

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 1.11.2019

The Hon'ble Mr.Justice D.Krishnakumar

W.P.No.12089 of 2009

and

M.P.No.1 of 2009

R.Suresh

...Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Collegiate Education,
Fort St. George, Chennai - 9.
 2. The Teachers Recruitment Board for
Government of Tamil Nadu,
College Road, Chennai - 6.
 3. The Director of College Education,
College Road, Chennai - 6.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from recruiting, appointing the candidates other than the M.Sc., Industrial Chemistry Candidates to the post of Lecturer for teaching B.Sc., Industrial Chemistry course available in the Government Colleges, Consequently, to direct the respondent to recruit M.Sc., Industrial Chemistry candidates and appoint them as a Lecturer in B.Sc., Industrial Chemistry course available in the Government Colleges.

For Petitioner : Mr.P.R.Thiruneelakandan

For Respondents : Mr.K.Karthikeyan
Government Advocate

O R D E R

The petitioner has filed this Writ Petition seeking for a Writ of Mandamus forbearing the respondents from recruiting, appointing the candidates other than M.Sc., Industrial Chemistry Candidates to the post of Lecturer for teaching B.Sc., Industrial Chemistry course available in the Government Colleges, and consequently, to direct the respondents to recruit M.Sc., Industrial Chemistry candidates and to appoint them as a

Lecturer in B.Sc., Industrial Chemistry course available in the Government Colleges.

2. The case of the petitioner, in short is that, he possessed the qualification of Bachelor Degree in B.Sc. Chemistry, in the year 2001, Master Degree in Industrial Chemistry in the year 2004, and M.Phil in Chemistry in the year 2007, and was pursuing Ph.D. in Chemistry. He also worked as Chemistry Lecturer in Government Arts College, C.Mutlur, Chidambaram, and now, working as a Lecturer in the Chemistry Department, Karpagavinayaga Engineering College, Chennai.

ii) While so, the Teachers Recruitment Board (TRB), second respondent herein called for the post of Lecturer to various Departments in Government Colleges for the academic year, 2008-2009, to fill-up 1195 vacancies, out of which, 156 vacancies are for the post of Chemistry Lecturer. The eligible educational criteria prescribed by the TRB for applying to the post of Lecturer in Chemistry is M.Sc., M.Phil, in Chemistry.

iii) The petitioner, having acquired the required qualification, i.e. M.Sc. in Industrial Chemistry and M.Phil in Chemistry, applied for the post of Lecturer in Chemistry. But, he was informed by second respondent/TRB that M.Sc. Industrial Chemistry is ineligible to the post of Lecturer in Chemistry, for, M.Sc Industrial Chemistry is not equivalent to M.Sc. Chemistry, and therefore, he was not considered for selection to the post of Chemistry Lecturer. Aggrieved by the same, the present Writ Petition is filed for the relief, as stated above.

3. Mr.P.R.Thiruneelakandan, the learned counsel appearing for the petitioner has submitted that, second respondent/TRB denied the post of Lecturer to the candidates, who possess M.Sc Industrial Chemistry by relying on the letter issued by the Madras University, which states that the candidate, who had possessed M.Sc. Industrial Chemistry in Alagappa University and Bharathidasan University are ineligible for applying to the post of Lecturer in Chemistry. According to the learned counsel, till the last recruitment, i.e. Recruitment called in the year 2008, second respondent/TRB allowed the candidates, who possessed M.Sc. Industrial Chemistry to apply for the post of Chemistry Lecturer, and also conducted certificate verification, interview and awarded marks, but, all of a sudden, for the academic year 2008-2009, the TRB denied appointment to the candidates, who possesses M.Sc Industrial Chemistry by relying on the aforesaid letter of the Madras University, and the same is done so as to deprive the petitioner, of his right/opportunity of being appointed to the post of Chemistry

Lecturer. Therefore, the learned counsel prayed for allowing the Writ Petition.

4. Mr.K.Karthikeyan, learned Government Advocate, while drawing the attention of this Court to the averments set in the counter affidavit filed by the second respondent/TRB, would submit that, though at the time of selection process conducted by the second respondent/TRB, the qualification of M.Sc. Industrial Chemistry is not prescribed for appointment to the post of Chemistry Lecturer and there was no Government Order declaring M.Sc Industrial Chemistry as equivalent to M.Sc Chemistry, the petitioner was not selected for appointment to the post of Chemistry Lecturer, which resulted in filing this Writ Petition, but, during the pendency of the Writ Petition, the Government has issued orders, vide G.O.Ms.No. 24 of Higher Education (K2) Department, dated 13.02.2013, treating the M.Sc Industrial Chemistry as equivalent to M.Sc Chemistry offered by Alagappa University, Karaikudi, and by virtue of the aforesaid Government Order, the petitioner is eligible for selection to the post of Chemistry Lecturer. However, the learned Government Advocate expressed the difficulty stating that since the second respondent/TRB completed the recruitment process and all the vacancies are filled-up not only for the academic year, i.e, 2008-2009 as well as for subsequent periods, if the claim of the petitioner is considered at this length of time, it would unsettle the settled position. Therefore, he sought for dismissal of the Writ Petition.

5. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate for the respondents.

6. In view of the fair submission made by the learned Government Advocate that by virtue of the Government Order, dated 13.02.2013, the petitioner is eligible to be considered for selection to the post of Lecturer in Chemistry and in view of the law laid down by the Hon'ble Full Bench of this Court, in the case of Nadar Thanga Shubha Laxman.A. Vs. State of TN and another) in W.P.(MD) No.16181, etc of 2013 (batch case), wherein, it is held that degrees obtained from one University is equivalent to the degrees obtained from yet another University and it cannot be held to be only prospective in operation but will have its effect and validity right from the date of issuance, this Court holds that the equivalency order passed by the Government has to be given effect to from the date on which, the petitioner acquired the qualification. Insofar as the difficulty expressed by the learned Government Advocate is concerned by stating that second respondent/TRB completed selection and filled-up the vacancies for the academic year i.e,

2008-2009 as well as for subsequent periods, and right now, there is no vacancy available and therefore, petitioner's claim cannot be considered, it is pertinent to point out that, this Court, while ordering notice of motion on 02.07.2009, directed the respondents to keep one post of Lecturer in Industrial Chemistry in Government College vacant till the disposal of the Writ Petition and the same is in force as on date. Therefore, by virtue of the said interim order, the respondents ought to have kept one post vacant, and in the event of failing compliance of the said interim order, Hence the respondents shall appoint the petitioner as and when the immediate next vacancy arises.

7. Thus, in the light of the decision of the Hon'ble Full Bench of this Court, in Nadar Thanga Shubha Laxman.A case (referred to above) and taking into consideration of the interim order granted by this Court, dated 02.07.2009, this Court is inclined to dispose of the Writ Petition with the following directions:-

i) The second respondent/TRB is directed to serve notice on the petitioner, calling upon him to appear for counselling along with necessary certificates/documents as prescribed by TRB within eight weeks from the date of receipt of a copy of this order.

ii) On such appearance of the petitioner, second respondent/TRB shall scrutinize the documents/certificates produced by the petitioner, and if he is found to be eligible for selection to the post of Chemistry Lecturer, appropriate orders shall be passed as expeditiously as possible, preferably, within two months thereafter and the said order of provisional selection shall be forwarded to the third respondent, upon which, the third respondent shall issue an appointment order, as and when next vacancy arises in the said Department.

iii) It is made clear that the petitioner shall be selected and appointed to the said post, only, if he satisfies all other eligible criteria, especially, NET qualification.

8. With the aforesaid direction, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Collegiate Education,
Fort St. George, Chennai - 9.
2. The Teachers Recruitment Board for
Government of Tamil Nadu,
College Road, Chennai - 6.
3. The Director of College Education,
College Road, Chennai - 6.

+1cc to Government Pleader SR.NO. 91556

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