

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.Nos.6316 and 7793 of 2019
and connected W.M.Ps

A.Syed Ansari .. Petitioner in W.P.No.6316/19

R.Pavithra .. Petitioner in W.P.No.7793/19

Vs

1.The State of Tamil Nadu,
Rep. by its Secretary,
Personnel and Administrative Reforms Department,
Secretariat, Chennai - 9.

2.Teacher Recruitment Board,
Rep. by its Chairman,
4th Floor, E.V.K.Sampath Maligai,
Chennai - 6.

.. Respondents in both Wps

Prayer in both WPs: Petitions filed under Article 226 of the Constitution of India seeking a Writ of Declaration to declare Explanation 1(c) of Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (Tamil Nadu Act No.14 of 2016) as ultra vires of the Constitution.

For Petitioner : Mr.Yogeshwaran
in W.P.No.6316/19

For Petitioner : Mr.K.Nagarajan
in W.P.No.7793/19

For Respondent 1 : Mr.Akhil Akbar Ali, G.A.
For Respondent 2 : Mr.K.Karthikeyan, G.A.

For Higher Education

Department : Mr.V.Kadhirvelu, Spl.G.P.

C O M M O N O R D E R

(Order of the Court was made by S.MANIKUMAR, J.)

Instant writ petitions were filed seeking for a Writ of Declaration to declare Explanation 1(c) of Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (Tamil Nadu Act No.14 of 2016) as ultra vires of the Constitution. Since, the issue involved in these writ petitions are common, they are heard together and disposed of, by means of this Common Order.

2. Mr.A.Syed Ansari, petitioner in W.P.No.6316 of 2019 is an Advocate, duly enrolled with the Bar Council of Tamil Nadu and Pondicherry. He is a visually challenged person. He has completed his schooling from the Government Higher Secondary School for the Blind, Poonamallee in 2009 and thereafter, secured a seat in the National University of Advanced Legal Studies (NUALS), Kochi and passed out of the law school, with a first class degree in 2014. Thereafter, he secured admission to the LLM program offered by Indian Law Institute, New Delhi (2014 - 2015 batch). The Indian Law Institute, New Delhi offered a one year LLM program in tune with the UGC guidelines and the course was recognised by the University Grants Commission.

3. Petitioner has further submitted that he got qualified in the National Eligibility Test (NET) held on 10.07.2016 and the State Eligibility Test (SET) on 21.02.2016. Further, he joined as Assistant Professor in the Tamil Nadu National Law University, Trichy, on contract basis from 10.07.2017 to 26.07.2018.

4. He further submitted that the Examination for the post of Assistant Professors / Assistant Professors (Pre-law) in Government Law Colleges for the year 2017-2018, was notified on 18.07.2018 and conducted on 16.10.2018. He further submitted that he had applied for the subject Constitutional law and the results were published on 29.01.2019. He was selected and interview call letter dated 08.02.2019 was received from the respondent.

5. Petitioner has further submitted that when he appeared for the interview on 01.03.2019, during certificate verification, despite having qualified in NET and SET exams, since his LLM degree was a one year degree, the respondents did not permit him to participate in the interview as he has not obtained his PG degree, after completion of S.S.L.C., Higher Secondary Course and a degree in (10+2+3+2 or 3) pattern from any University or institution, recognized by the University Grants Commission.

6. Aggrieved by the same, he filed the instant writ petition challenging the vires of Explanation 1(c) of Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (impugned provision) as arbitrary, unconstitutional as it is violative of Article 14 and 21 of the Constitution of India.

7. When the case came up for hearing on 15.07.2019, we passed the following order:

“On 4.3.2019, we passed the following order:

Mr.A.Syed Ansari/petitioner has sought for a Writ of Declaration, declaring Explanation 1 (c) of Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (Tamil Nadu Act No.14 of 2016) as ultra vires the Constitution.

2. Petitioner has completed the School Education in Government Higher Secondary School for the blind, Poonamallee in 2009 and secured a seat in the National University of Advanced Legal Studies (NUALS), Kochi and passed out of law school with a first class in 2014. He has secured admission in the one year LLM programme offered by the Indian Law Institute (Deemed University), New Delhi, (2014-2015 batch). He got LLM degree in 2015.

3. Petitioner has further contended that one year LLM Course was approved by UGC, by an order dated 18.01.2013, which states that the Commission considered the guidelines for

introduction of one year LLM programme, 2015 and approved introduction of one year LLM degree only in such universities/institutions which have a Centre for Post Graduate Legal Studies.

4. UGC has also issued a notification dated 05.08.2014, clarifying that one year LLM Degree programme shall be allowed to be run only in the Centre for Post Graduate Legal Studies for the candidates who have the entry qualification of first degree plus LLB or who have successfully completed five year integrated programme after 10+2.

5. Petitioner has further contended that, he has qualified in the National Eligibility Test held on 10.07.2016 and the State Eligibility Test on 21.02.2016 respectively. He joined as a Assistant Professor at Tamil Nadu National Law University, Trichy on contract basis from 10.07.2017 to 26.07.2018 and resigned his job, for preparing for the examination and interviews for the Direct Recruitment of Assistant Professors in Government Law Colleges 2017-2018.

6. On 18.07.2018, the Teacher Recruitment Board, Chennai, the second respondent, has issued notification for filling up of vacancies in the post of Assistant Professors / Assistant Professors (Pre-Law) in Government Law Colleges for the year 2017-2018. The qualifications prescribed by TRB for the above said post, are extracted hereunder:-

(4) Qualifications:
Assistant Professor in Law

i	Master's Degree in Law in the relevant subject for which application is made of any recognised University with not less than 55 percent marks and a good academic record ; "(As per the Order dated 23.12.2010 of the Hon'ble High Court, Madras in Writ Petition No 10930 of 2010)." Provided that candidates belonging to Scheduled Castes and Scheduled Tribes shall possess not less than 50 percent marks in the relevant subjects. Provided further that holders of Ph.D in Law, who have passed their Master's degree in Law prior to the 19th September 1991, shall possess not less than 50 percent marks in the Master's degree in
ii	Law. AND Must have qualified in the National Eligibility Test (NET) or an accredited Test. Provided however, that candidates, who are or have been awarded a Ph.D. Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D. Degree) Regulations,
ii	
i	2009, as amended 2016 (3rd Amendment) shall be exempted from the requirement of the minimum eligibility condition of NET or an accredited Test. AND Must have enrolled as an advocate in the Bar council, Provided that other things being equal, preference shall be given to persons who have actual experience at the Bar or teaching experience.

"Note 1: Candidates who have obtained their Post Graduate Degrees in Law through Correspondence Course are not eligible to apply for the post of Assistant Professor in view of the Orders dated 23-2-2012 and 21-3-2012 of the Hon'ble High Court, Madras in Writ Petition Nos 19396 of 2011 and 5014 of 2012".

"Note 2:

i. Candidates who possess M.L/LL.M. Degree in 'Contracts' can apply to the post of Assistant Professor for both 'Business Law' and 'Law of Contracts'.

ii. Candidates who possess M.L/LL.M Degree in Constitutional Law and International Law' can apply to the post of Assistant Professor for both 'Constitutional Law' and 'International Law'

iii. Candidates who possess M.L/LL.M, Degree in 'Constitutional Law and Human Rights can apply to the post of Assistant Professor for both 'Constitutional Law' and Human Rights Law'.

iv. Candidates who possess M.L/LL.M., Degree in 'Labour Law and Administrative Law' can apply to the post of Assistant Professor for both 'Labour Law ' and ' Administrative Law'.
Assistant Professor (Pre-Law)

i	MA Degree in any of the universities in the State of Tamil Nadu or a degree of equivalence in the respective subjects as may be specified by the Government from time to time with not less than 55 percent of marks in the respective subject and a good academic record ; Provided that candidates belonging to Scheduled Castes and Scheduled Tribes shall possess not less than 50 percent of marks; Provided further that holders of PhD degree who have passed their Master's degree in the respective subject prior to the 19th September 1991, shall possess not less than 50 percent of marks.
ii	AND Master's degree in Law of any recognised University with not less than 55 percent of marks and a good academic record. Provided that candidates belonging to Scheduled Castes and Scheduled Tribes shall possess not less than 50 percent marks; Provided further that holders of PhD in Law who have passed their Master's degree in Law prior to the 19th September 1991, shall possess not less than 50 percent marks in the Master's degree in Law;
iii	AND Must have qualified in National Eligibility Test (NET) or an accredited Test. iv Provided however, that candidates, who are or have been awarded a Ph.D. Degree in accordance with the University Grants Commission (Minimum standards and Procedure for Award of Ph.D. Degree) Regulations, 2009, as amended in 2016 (3rd Amendment) shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET or an accredited Test".
iv	AND Must have enrolled as an advocate in the Bar council

"Note. Candidates who have obtained their Post Graduate Degree in Law through Correspondence Course are not eligible to apply for the post of Assistant Professor (Pre-Law) in view of the Orders dated 23-2-2012 and 21-3-2012 of the Hon'ble High Court, Madras in Writ Petition Nos. 19396 of 2011 and 5014 of 2012".

7. Petitioner has appeared in the written examination scheduled on 16.10.2018 and results have been published on 29.01.2019. He was selected and interview call letter dated 08.02.2019, was received

from the respondent. He appeared for the interview on 01.03.2019.

8. According to the petitioner, though he was qualified in NET and SET examinations and successfully completed the written examination. He was not allowed to participate in the interview on the ground that LLM degree obtained by him was a one year degree and that Explanation 1(c) of Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, does not permit the petitioner to seek for employment in government service.

9. As per Explanation 1(c) of Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, a post graduate degree obtained after completion of SSLC, Higher Secondary Course and a degree [10+2+3+2 or 3] from any University or Institution, recognized by the University Grants Commission shall be recognized as the qualification.

10. In the case on hand, one year LLM degree has been permitted to be started by the University Grants Commission, in Universities/Institutions, which have established the Centre for Post Graduate Legal Studies in accordance with UGC's guidelines, dated 18.01.2013. Letter dated 05.08.2014 of the University Grants Commission, addressed to the Vice Chancellors, is reproduced:-

"F.5-1/99(CPP-II)

5th August, 2014

NOTIFICATION

SUBJECT : CLARIFICATION ON DURATION OF LL.M DEGREE

1. The University Grants Commission has recently notified the specification of Degrees alongwith minimum duration which can be awarded by the Universities at different levels. This notification has been published in The Gazette of India on 5th of July, 2014.

2. In this connection, it is clarified that only those Universities which have established the Centre for Post Graduate Legal Studies in accordance with UGC's Guidelines, issued on 18th January, 2013 (available on UGC's website), can offer one year LLM Degree program. It is also pertinent to mention that such Universities shall also have to ensure that they have the faculty, infrastructure, Library, teleconferencing facilities, etc as per the UGC's Guidelines referred to above.

3. This is in consonance with UGC (Minimum Standards of Instructions for the Grant of Master's Degree through Formal Education), (1st Amendment), Regulations, 2013, which provides that:

"Provided that a master's degree, where entry qualification is two bachelor's degree in succession, including one in the relevant discipline or integrated degree of five years in the relevant discipline after plus two, the duration may be one year."

4. In view of the above, it is reiterated that one year LLM Degree programme shall be allowed to be run only in the Centre for Post Graduate Legal Studies for the candidates who have the entry qualification of first degree plus LLB or who have successfully completed five year integrated programme after 10+2.

(Jaspal S. Sandhu)
Secretary"

11. Course directed to be recognized i.e. one year LLM, is to maintain academic quality and details of standards. Many of programmes have been directed to be more comprehensive, with shorter durations in examination. University Grants Commission, has permitted the Universities/Institutions which have established Centres for Post Graduate Legal Studies, for introduction of one year LLM programme, subject to the guidelines.

12. According to the petitioner, Indian Law Institute, New Delhi, is a deemed university, with one year LLM programme.

13. Bare reading of Clause 4(i) notification issued for the recruitment of Assignment Professors/Assistant Professors (Pre-law) in Government Law Colleges - 2017-2018, shows that Master's Degree in Law in the relevant subject for which application is made if any recognised University with not less than 55 percent marks and a good academic record, is sufficient to satisfy the eligibility criteria for the above said posts. But explanation 1(c) of Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (Tamil Nadu Act No.14 of 2016), states that such post graduate degree obtained after completion of SSLC, Higher Secondary Course and a degree [10+2+3+2 or 3] from any University or Institution, recognized by the University Grants Commission shall be recognized as the qualification.

14. University Grants Commission, recognizes one year LLM programme. UGC also recognizes a 10+2+3+2. Master's Degree in Law in the relevant subject for

which application is made of any recognised University with not less than 55 percent marks and a good academic record.

15. It is trite law that guidelines/regulations issued by the UGC/MCI/AICTE, such other bodies, have statutory force. Notification issued for enforcing such guidelines have to be followed by the Colleges/Universities as the case may be.

16. Going by the University Grants Commission guidelines, we are of the view that the petitioner who have secured the LLM degree with one year programme, also be considered for certificate verification and interview for the post of Assistant Professors / Assistant Professors (Pre-Law) in Government Law Colleges, subject to outcome of the writ petition.

17. Therefore, we direct the Teacher Recruitment Board, Chennai, to permit the petitioner to participate in the interview and for certificate verification and award suitable marks.

18. If the petitioner is selected, the same be made provisional, he is otherwise qualified.

19. Appearance of the petitioner in the interview, certificate verification and selection provisionally made, would be subject to the result of the writ petition.

20. Mr.Akhil Akbar Ali, learned Government Advocate appearing for Secretary, Personnel and Administrative Reforms Department, Chennai, the first respondent and Mr.K.Karthikeyan, learned Government Advocate, appearing for Teacher Recruitment Board, Chennai, the second respondent, would communicate the orders of this Court, forthwith, to the respondents to implement the same, in letter and spirit.

21. Petitioner is permitted to communicate orders of this Court.

22. Post on 18.03.2019.

2. On 12.6.2019, we directed the Equivalence Committee, Higher Education (K2) Department, vide order in G.O. (Ms) No.93 Higher Education (K2) Department dated 30.5.2019, to convene a meeting, within two weeks from the date of receipt of a copy of the said order, to decide the equivalence

of one year L.L.M. Degree programme for the purpose of employment in Public Services, keeping in mind the earlier orders of this court dated 4.3.2019.

3. On 3.7.2019, when the matter came up for hearing, recording the submission of the learned Government Advocate for the State that directions issued on 4.3.2019 have not been complied with, we observed as here under:

"Respondents are directed to comply with the orders of this court, in letter and spirit, failing which suitable directions would be issued."

4. In the said order, we also recorded the submission of Mr.K.Karthikeyan, learned Government Advocate, appearing for the State that within a week from 3.7.2019, Equivalence Committee would be convened and decision taken.

5. Today, when the matter came up for further hearing, it is represented by Mr.Akhil Akbar Ali, learned Government Advocate for State that, Secretary, P&AR Department, has also forwarded a proposal to the Higher Education Department, to constitute the Equivalence Committee. Our orders dated 12.6.2019 and 3.7.2019, have not been implemented in letter and spirit, despite the observation stated supra.

6. Mr.P.Kadhirvel, learned Special Government Pleader appearing for Higher Education Department sought some more time. Having regard to the observations stated supra, we are not inclined to grant further time.

7. Mr.K.Karthikeyan, learned Government Advocate, submitted that he had also conveyed the orders of this court dated 3.7.2019 to the Teachers Recruitment Board.

8. Secretary to the Government, Higher Education Department, Government of Tamil Nadu is directed to appear on 22.07.2019 at 10.30 a.m, to explain as to why orders of this court dated 12.6.2019 and 3.7.2019 respectively, have not been implemented as directed.

9. Interim order passed on 17.6.2019 made in W.P. Nos.15034, 15035 and 15037 of 2018, is extended till 22.7.2019.

10. Post the matter on 22.7.2019."

8. The case of Ms.R.Pavithra, petitioner in W.P.No.7793 of 2019 is that she completed her School Education in PDR Higher Secondary School Harur, and secured 1111 marks out of 1200 during March 2010. She passed B.A.,B.L., (Hons) in the Tamil Nadu Dr.Ambedkar Law University and secured 67.45%. She secured admission in one year LLM Programme offered by the Gujarat National Law University in May 2016 (Regular) as Grade A in 2016. She further stated that LLM course was approved by UGC by an order dated 18.01.2013, which states the Commission considered the guidelines for introduction of one year LLM programme and approved introduction of one year LLM degree only in such Universities/Institutions which have a centre for Post graduate Legal studies. UGC has also issued Notification dated April, 2016 clarifying one year LLM degree programme i.e., Corporate and Business law. She further submitted that she got qualified in the National Eligibility Test held on 11.4.2016 and to this effect certificate was also issued. She joined as a Assistant Professor in Central Law College and National Law School of India, Bangalore University from 24.10.2016 at School of Law, Christ (Deemed to be University) Hosur Road, Bangalore. The petitioner has further stated that she is working there till date. The petitioner states that she has also worked as Asst. Professor during the period from 4.8.2016 to 20.10.2016 in Central Law College, Salem.

9. Petitioner has further stated that on 18.07.2018, the Teacher Recruitment Board (TRB), Chennai the second respondent herein, has issued a notification for filling up the vacancies in the post of Asst. Professor / Asst. Professor (Pre-Law) in Government Law Colleges for the year 2017-18. In the qualifications prescribed by TRB for the above said post, as per Explanation 1(c) of Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, a post graduate degree obtained after completion of SSLC, Higher Secondary Course and a degree [10+2+3+2 or 3] from any University or Institution, recognized by the University Grants Commission shall be recognized as the qualification. As she has not obtained her PG degree in the said manner, her case was not considered for selection for the post of Assistant Professors / Assistant Professors (Pre-Law). Hence, she has filed the instant writ petition challenging the vires of Explanation 1(c) of Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (impugned provision) as arbitrary, unconstitutional as it is violative of Article 14 and 21 of the

Constitution of India.

10. When the matter came up for hearing on 18.03.2019, we made the following order:

"W.P.No.7793 of 2019 is for a writ of declaration, to declare the explanation 1(c) of Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act 2016, Tamil Nadu Act 14 of 2016, as ultra vires the Constitution.

2. On a similar prayer, this Court has entertained W.P.No.6316 of 2019.

3. Having regard to the fact that in the above writ petition, interview was yet to be completed, we permitted the petitioner Mr.A.Syed Ansari to participate in the interview and for certificate verification.

4. In WMP No.8437 of 2017, the writ petitioner Pavithra, has sought for a direction to permit her to participate in ongoing interview process for Direct Recruitment of Asst.Professor / Pre Law in Government Law College 2017-2018, pursuant to the Notification No.2 of 2018 dated 18.07.2018 pending disposal of the writ petition.

5. In WMP No.No.8474 of 2019, writ petitioner, has sought for a directed to the 2nd respondent to keep one post Asst. Professor, vacant under the present recruitment i.e. Direct Recruitment of Asst.Professor / Pre Law in Government Law College 2017-2018, pursuant to the Notification No.2 of 2018 dated 18.07.2018 pending disposal of the writ petition.

6. Mr.K.Karthikeyan, learned Government Advocate submitted that interview for the post of Assistant Professor is over on 05.03.2019. Hence, WMP No.8437 of 2019, has become infructuous.

7. In view of the above, permission sought for in WMP No.8437 of 2019, cannot be granted and hence, dismissed.

8. Further, as the petitioner has not attended the interview, no post need be kept vacant. Therefore, WMP No.8474 of 2019, is dismissed.

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12. Post the instant writ petition, along with W.P.No.6316 of 2019."

11. Further, when the matter came up for hearing on 23.07.2019, this Court passed the following order:

"Mr.Mangat Ram Sharma, I.A.S., Principal Secretary to the Government, Higher Education Department, Government of Tamil Nadu, present in Court submitted that, the orders of this Court has been received only on 15.07.2019. Syllabus for one year L.L.M., programme offered by the Indian Law Institute, New Delhi, and one year L.L.M., programme offered by Gujarat University, have to be obtained and thereafter, Equivalence Committee has to be constituted.

2. Mr.Mangat Ram Sharma, I.A.S., Principal Secretary to the Government, Higher Education Department, Government of Tamil Nadu, further submitted that, he required two weeks time.

3. Mr.Akhil Akbar Ali, learned Government Advocate for the respondent, submitted that, syllabus of the institutions would be collected. Secretary to the Government, Higher Education Department, Government of Tamil Nadu, submitted that Equivalence Committee would be convened, and that a decision would be taken with two weeks from the date of receipt of a copy of this order made in this writ petition. Submission is placed on record. It is made clear, submission made, should be honoured.

4. Interim order already granted by this Court in WMP.Nos.7157 and 15005 of 2019 in WP.Nos.6316 and 15035 of 2019, is extended till 08.08.2019.

5. Post the matter on 08.08.2019."

12. When the matter was taken up today (08.08.2019), Mr.V.Kadhirvelu, learned Special Government Pleader appearing for the Higher Education Department, submitted that in compliance of the direction of this Court made on 23.07.2019, Government have issued G.O.Ms.No.164, Law (LS) Department, dated 07.08.2019 and the same is extracted hereunder:

"GOVERNMENT OF TAMIL NADU

ABSTRACT

Public Services - Equivalence of Degrees - LLM degree programme of other Universities and LLM degree offered by Tamil Nadu Dr.Ambedkar Law University - Resolutions of Equivalence Committee - Orders - Issued.

LAW (LS) DEPARTMENT

G.O. (Ms) No. 164

Dated: 07.08.2019.
Vihari -Aadi -22.
Thiruvalluvar Aandu 2050.

Read :

1. Order of High Court, Madras, dated 12.06.2019 in W.P.Nos.6316/2019 and 7793/2019.
2. From the Director of Legal Studies, Letter Rc.No.2079/A4/2019, dated 15.07.2019.
3. G.O.(Ms) No.93, Higher Education (K2) Department, dated 30.05.2019.
4. From the Vice-Chairman (FAC), TANSCH/ Principal Secretary to Government, Higher Education Department, Letter Rc.No.1198/2019A, dated 02.08.2019.

ORDER:

The High Court, Madras, in its order first read above, has directed the Equivalence Committee, constituted vide G.O.(Ms) No.93, Higher Education Department, dated 30.05.2019 to convene a meeting to decide on the equivalency of one year LLM degree programme for the purpose of employment in Public Service. In the letter second read above, the Director of Legal Studies has requested the Member-Secretary, Tamil Nadu State Council for Higher Education, to decide on the equivalence of one year LLM degrees obtained by A.Syed Ansari from Indian Law Institute (Deemed to be University) New Delhi and R.Pavithra from Gujarat National Law University. The Higher Education Department has requested the Member-Secretary (FAC), Tamil Nadu State Council for Higher Education to place the said subjects before the Equivalence Committee.

2. The Tamil Nadu State Council for Higher Education has formulated a Subject Expert Committee and the said Committee after making a comparative study of unit-wise analysis of LLM (One year) in Corporate and Business Law offered by Gujarat National Law University and the LLM degree in Business Laws (Two year) offered by the Tamil Nadu Dr. Ambedkar Law University and after studying the syllabus for both the Courses, has stated that the similarity between these courses is only 45% and accordingly has concluded that the former course is not equivalent to LLM degree offered by the Tamil Nadu Dr. Ambedkar Law University. Also in a similar comparative study of syllabus and unit-wise analysis of LLM (One year) in Constitutional Law and Administrative Law offered by Indian Law Institute, New Delhi, with LLM degree in Constitutional Law and Human Rights

(Two year) offered by the Tamil Nadu Dr. Ambedkar Law University and after studying the syllabus for both the courses, the Subject Expert Committee has stated that the similarity between these courses is only 26.5% and accordingly has concluded that the former course is not equivalent to LLM degree offered by the Tamil Nadu Dr. Ambedkar Law University.

3. In the letter 4th read above, the Vice-Chairman (FAC), Tamil Nadu State Council for Higher Education / Principal Secretary to Government, Higher Education Department has forwarded the resolutions made in respect of the aforesaid two matters contained in Agenda 29 and 30 by the 1st Equivalence Committee held on 31.07.2019, recommending the non-equivalence of degrees, as reported by the Subject Expert Committee for necessary action.

4. The Government, after careful consideration, concurs with the views of the aforesaid Subject Expert Committee and approve the following resolutions made in the 1st Equivalence Committee meeting held on 31.07.2019 under the Chairmanship of the Principal Secretary to Government, Higher Education Department:-

Agenda No: 29 Public Services - Educational Qualification Consideration of Masters of Laws (LLM) (one year) degree of Gujarat National Law University, Gujarat as to whether equivalent to LLM/ML degree (Two years) of Tamil Nadu for the purpose of employment in Public Services - Regarding	Not Equivalent
Agenda No: 30 Public Services - Educational Qualification Consideration of Masters of Laws (LLM) (one year) degree of The Indian Law Institute, New Delhi as to whether equivalent to LLM/ML degree (Two years) of Tamil Nadu for the purpose of employment in Public Services - Regarding.	Not Equivalent

5. Accordingly, it is ordered that the LLM (one year) degree in Corporate and Business Law offered by the Gujarat National Law University is not equivalent to the LLM (two year) degree in Business Laws offered by the Tamil Nadu Dr. Ambedkar Law University and the LLM (one year) degree in Constitutional Law and Administrative Law offered by the Indian Law Institute, New Delhi, is not equivalent to the LLM (two year) degree in Constitutional Law and Human Rights offered by the Tamil Nadu Dr. Ambedkar Law University, for the purpose of employment in Public Services.

(BY ORDER OF THE GOVERNOR)

C.GOPI RAVIKUMAR,
SECRETARY TO GOVERNMENT (FAC)."

13. This Court is of the view that the question of considering equivalence is purely in the exclusive domain of the experts in the field of education. That is the reason why, Equivalence Committee has been constituted and it is also stated to be periodically convened, and on the basis of the recommendation of such committee, orders are issued by the Government. Further, the Court, exercising powers under Article 226 of the Constitution, is not an expert body to sit in judgement over educational matters and compel the educational authorities, to treat any degree or programme, as equivalent to the other, for the purpose of pursuing higher studies or employment, as the case may be.

14. Needless to say that it is the prerogative of the employer to prescribe the age, educational qualifications etc., for appointment to a post. Reference can be made to a decision of the Hon'ble Supreme Court in P.U.Joshi v. Accountant General reported in 2003 (2) SCC 632, where the Hon'ble Supreme Court, at Paragraph 10, held as follows:

"10. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the statutory tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by

appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing the existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service."

15. Recognising educational qualifications as suitable for pursuing higher studies is different from prescribing educational qualifications for appointment to a post. Both are different. The former is ipso facto not applicable for the latter. Government is empowered to prescribe educational qualifications for appointments to a post. Now on examination of the syllabus and pattern of study one year L.L.M degree course, offered by the Indian Law Institute, New Delhi and Gujarat National Law University, Gujarat, as the case may be, it has been found by the Equivalence Committee, as not equivalent to the two years L.L.M. Course.

16. In the light of the decisions and discussion, we are of the view that, Explanation 1(c) of Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (Tamil Nadu Act No.14 of 2016), cannot be struck down as ultra vires of the Constitution of India.

17. In the result, both the writ petition are dismissed. Consequently, the connected miscellaneous petitions are closed. No costs.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

To

1.The Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat, Chennai - 9.

2.The Chairman,
Teacher Recruitment Board,
4th Floor, E.V.K.Sampath Maligai,
Chennai - 6.

+2 Ccs to M/s.B.Poongkhulali, Advocate sr 68265.
+1 CC to Govt. Pleader sr 68250

W.P.Nos.6316 and 7793 of 2019
and connected W.M.Ps

RSV(CO)
SP(17/09/2019)