

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.16905 of 2019
and W.M.P.Nos.16491 and 16495 of 2019

B.Jayalakshmi

..Petitioner

vs

1.The Secretary
Higher Education Department
Secretariat, Fort. St. George
Chennai-600 009.

2.The Registrar
University of Madras
Chepauk, Chennai-5.

3.The Director
Directorate of Collegiate Education
9th floor, EVK Sampath Buildings
College Road, Chennai-600 006.

4.The Secretary and Correspondent
QUEST
82, Sterling road
Seetha nagar
Nungambakkam, Chennai-600 034.

5.The Principal
The Quaide Milleth College for Men
Tambaram - Velacherry main road
Medavakkam, Chennai-600 100.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to accept the qualification of the petitioner's in the light of the Equivalence Certificate issued by both Annamalai University in Ref.B1-6/2016 dated 22.03.2016 as to the post graduate qualification and the relevancy certificate as to the Ph.D., issued by Manonmaniam Sundranar

University in Ref.No.MSU/RES/Ph.D/R5/5789 dated 03.05.2016 as to the Ph.D., qualification and also in terms of the orders issued in G.O.(Ms)No.27, Higher Education (K2) Department, dated 13.02.2014 and to issue orders of deemed declaration of probation of the service of the petitioner in the post of Assistant Professor in the light of Regulation 11.2 of UGC Regulations on minimum qualifications for appointment of teachers and other academic staff in Universities and colleges and measures for the maintenance of standards in Higher Education 2010 (Regulation No.F.3-1/2009 dated 30th June, 2010).

For Petitioner : Mr.Singaravelan Senior Counsel
for Mr.V.S.Jagadeesan

For R1 and R3 : Mr.V.Kadhirvelu
Special Government Pleader

For R2 : Mr.L.P.Shanmugasundaram

For R4 and R5 : Mr.N.A.Nissar Ahmed

O R D E R

Writ Petition is filed for issuance of Writ of Mandamus directing the respondents to accept the qualification of the petitioner's in the light of the Equivalence Certificate issued by both Annamalai University in Ref.B1-6/2016 dated 22.03.2016 as to the post graduate qualification and the relevancy certificate as to the Ph.D., issued by Manonmaniam Sundaranar University in Ref.No.MSU /RES /Ph.D /R5 / 5789 dated 03.05.2016 as to the Ph.D., qualification and also in terms of the orders issued in G.O.(Ms)No.27, Higher Education (K2) Department, dated 13.02.2014 and to issue orders of deemed declaration of probation of the service of the petitioner in the post of Assistant Professor in the light of Regulation 11.2 of UGC Regulations on minimum qualifications for appointment of teachers and other academic staff in Universities and colleges and measures for the maintenance of standards in Higher Education 2010 (Regulation No.F.3-1/2009 dated 30th June, 2010).

2. Heard the learned Senior Counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents 1 & 3 and the learned counsel appearing for the respondents 2, 4 and 5.

3.The case of the petitioner is that she had passed M.Com., degree in Rural Economics and Co-operation with First Class scoring 60.06% of marks in May 1994 in Annamalai University. As

a part of the curriculum of the said degree, she underwent institutional training in Salem District Central Co-operative Bank Ltd., for a period of eight weeks. She also completed degree of M.Phil., (Master of Philosophy) with First Class in December 2007 in the Bharathidasan University. Subsequently, she also got Ph.D., degree in Doctor of Philosophy in Commerce in the year April 2014 from Manonmaniam Sundaranar University. While so, 4th respondent on 10.01.2016 issued an advertisement in "Times of India" daily inviting applications for the post of Assistant Professor for the 5th respondent college. Based on the said advertisement, the petitioner has applied for the post and was selected for appointment as Assistant Professor in the department of co-operation with effect from 01.02.2016. According to the said appointment order, she would be kept on probation for a period of two years and she was appointed in the post approved and sanctioned by the Director of Collegiate Education, Chennai-6 vide order dated 04.01.2016. Further, in the appointment order, it was stated that her appointment is made subject to approval of the University of Madras and Director of Collegiate Education.

4.It is the further case of the petitioner that pursuant to the selection process, the petitioner joined the post of Assistant Professor in the 5th respondent college on 01.02.2016 in the Department of Co-operation. From that date, she joined the duty and was discharging the same without any remarks. After completion of probation, the appointment order should have been issued on 01.02.2018, after completion of two years of satisfactory service, since she has not availed any leave which would postpone the declaration of probation. However, till the completion of two years, the respondents 4 and 5 have not taken any steps to order declaration of completion of her probation. Thereafter, the 5th respondent wanted the petitioner to produce a certificate of equivalence to the post graduate degree she possesses from Annamalai University, where she has studied the said post graduate degree. As per the instruction, the petitioner has approached Annamalai University and got a equivalent certificate on 22.03.2016 certifying that M.Com., (Rural Economics and Co-operation) programme offered by the Annamalai University is equivalent to Master of Commerce in Co-operation, besides clarifying that M.Com., (Rural Economics and Co-operation) has since been renamed as M.Com., (Co-operative Management), further the Government of Tamil Nadu in G.O.Ms.No.27, Higher Education (K2) Department, dated 13.02.2014, issued orders that M.Com., (Co-operative Management) is equivalent to M.Com., These orders and the certificate of equivalence would go to show that M.Com., (Rural Economics and

Co-operation), M.Com., (Co-operation) and renamed M.Com., (Co-operative Management), are equivalent to M.Com.,

5.The petitioner has further averred that thereafter, the respondents 4 and 5 asked the petitioner to produce a certificate of relevance that her Ph.D., in Commerce is relevant to the Discipline of Co-operation from the Manonmaniam Sundaranar University, where she obtained her Ph.D., degree. Accordingly, she has also obtained a certificate of relevance dated 03.05.2016 stating that Ph.D., awarded to her in Commerce is relevant to the Discipline of Co-operation and she has also produced the same before the 5th respondent. Even after the production of both the certificates of equivalence and relevance, no action was taken by the respondents 4 and 5 to issue orders declaring completion of her probation. As against the in-action of the respondents, the petitioner has come out with the present writ petition.

6.Mr.Singaravelan, the learned Senior Counsel appearing for the petitioner submitted that though Annamalai University and Manonmaniam Sundaranar University issued equivalence and relevance certificates in favour of the petitioner as if that two courses viz., M.Com., (Rural Economics and Co-operation) and Ph.D., in Commerce studied in their respective Universities are equivalent to M.Com., (Co-operation) and Ph.D., in Discipline of Co-operation, delay by the respondents in issuance of orders declaring completion of petitioner's probation is unsustainable.

7.Learned Special Government Pleader appearing for the respondents 1 and 3 submitted that the respondents 1, 4 and 5 are declared as formal parties. The only contesting respondent is 2nd respondent, he is the competent authority and the learned counsel appearing for the 2nd respondent will reply in a proper manner.

8.Mr.L.P.Shanmugasundaram, the learned counsel appearing for the 2nd respondent filed a detailed counter affidavit and the relevant paragraphs are extracted hereunder:

"7.In this context, I submit that the said G.O.No.27, dated 13.02.2014 of Higher Education (K2) Department, was issued pursuant to the recommendations of 46th Equivalence Committee held on 29.01.2014 for the purpose of securing employment in Public Services. In other words, this G.O., will be applicable to those who are seeking clarifications with regard to M.Com., degree courses for getting employment in Public services. In the present case, the petitioner is a teaching faculty in the 5th respondent college and hence, she should have covered the entire

syllabus of M.Com/M.A. Co-operations/M.A. Co-operative Management/M.Com., Co-operation/M.Com., Co-operative Management/M.B.A. Co-operative Management according to the recommendations of the Board of Studies in Co-operation of the respondent University. The certificate dated 22.03.2016 issued by the Annamalai University also stated in general that the M.Com., (Co-operative Management) is equivalent to M.Com., as per above said G.O., Further, it may be clearly seen from the Degree Certificate of Annamalai University issued to the petitioner that she had undergone Degree Course of 'MASTER OF COMMERCE' and qualified to receive the Degree and her optional subject are being 'RURAL ECONOMICS & COOPERATION'. The certificate dated 22.03.2016 issued by the Annamalai University also confirms that her optional subject are being 'RURAL ECONOMICS & COOPERATION'. Hence, she did not cover the prescribed subjects of 'Cooperation' in her M.Com., Degree. From these evidences, it is clear that she did not take the 'COOPERATION' as her main subject which is very much essential for the petitioner who is a teaching faculty in Department of Cooperation and hence she attracts disqualification to hold the post of Assistant Professor in Cooperation.

8.It may be also mentioned that with regard to appointment of paid officers and servants in the public services of Department of Cooperation or servants to the administrative posts in the Cooperative Societies, the Government in G.O.Ms.No.4432, Revenue Department, dated 29.09.1953 had prescribed the 'Cooperative Training' as 'necessary other qualification'. This necessary qualification was reiterated from time to time through circulars, lastly in G.O.Ms.No.212, Cooperation, Food and Consumer Protection Department dated 04.07.1995 and the 'Cooperative Training' was made as necessary qualification and all the cooperative societies have been directed by the Division Bench of this Hon'ble Court in L.Justine vs. Registrar of Cooperative Societies, reported in 2002 (4) CTC 385 to amend their special byelaws inconformity with clause (viii) of sub rule (1) of Rule 149 of Tamil Nadu Cooperative Societies Rules, 1988 which specifies the Cooperative Training as necessary qualification. While being so, the Registrar of Cooperative Societies vide his letter Rc.No.74487/2012/PACS1, dated 27.08.2012, wherein it was exempted the prospective employees of cooperative societies possessing, B.Com., Degree, M.Com., Degree with Cooperation as special subject from undergoing cooperative training, but they shall not be exempted from passing the examinations in the subjects, referred to in item A(ii) of

the said circular which they did not study in their degree courses. The subjects mostly not covered are Book keeping, Banking, Cooperation and Auditing. But, this ruling of Registrar of Cooperative Societies will not be applicable to the petitioner in as much as she is not in the public service or the employee of Cooperative Society. Since, she is serving as faculty she ought to cover all these subjects in her post graduation and equip herself to handle all the subjects and to teach the students who are the prospective employees of cooperative department and cooperative societies. Pursuing of left-out subjects cannot be done by her at this stage, since acquiring of qualification in the reversal order cannot be permissible as per the decision of Hon'ble Division Bench of this High Court, made in W.A.No.805 of 2014 dated 06.08.2014 that the qualification acquired in a reversal order, cannot cure the defect that was already existed.

In this relevant case, the candidate should possess

- (i) A Post Graduate Degree in Co-operation
- (ii) NET/SLET or Ph.D. as per the UGC's 2009 amendment to its Regulation 2000.

The petitioner's qualifications with reference to both (i) and (ii) do not satisfy the norms.

M.A. (Economics & Co-operation) is not yet declared as equivalent to M.Com. (Co-operation) by appropriate authority, in this case of the University of Madras.

The Ph.D. Degree obtained by the petitioner can be declared as equivalent to Ph.D., in Co-operation (which is essential in the absence of NET/SLET certificate) only after scrutiny of the Ph.D Thesis by the University of Madras.

9.I submit that due to the above facts, the University has sent a letter to the Principal, 5th respondent herein, to kept in abeyance the approval of qualification already granted to petitioner herein, along with a request to forward the Ph.D., thesis of title 'A study on the consumer behaviour of edible oil in Pudukottai District of Tamil Nadu ' as it needs some clarification about the subject. The relevance certificate No.MSU/RES/Ph.D/R5/5789 dated 03.05.2016 issued by the Manonmaniam Sundaranar University states that the Ph.D. Awarded to the petitioner is relevant to the Discipline of Cooperation was also not accepted by us in the event of non-submission of Ph.D., thesis for our

perusal. In this regard, the Principal has forwarded a letter dated 27.05.2019 stating that the petitioner in her dated 22.05.2019 informed him that she had lost her Ph.D., thesis in the flood during 2015 and requested two weeks time to retrieve the same from the University concerned. Till date she has not submitted her Ph.D., thesis which is compulsorily needed for finalising the approval of qualification in order to verify her Ph.D., thesis of title "A study on the consumer behaviour of edible oil in Pudukottai District of Tamil Nadu is relevant to Ph.D., in Co-operation. Instead of furnishing her Ph.D., thesis, she approached this Court suppressing all these facts, which is unsustainable in law."

9.Learned Senior Counsel appearing for the petitioner further submitted that a similarly situated person viz., one A.Vanathammal, who studied M.Com., (Rural Economics and Co-operation) and Ph.D., in Commerce got appointment as Assistant Professor in the Department of B.Com., (Co-op.), Government Arts College, Salem. The petitioner has also joined in the 5th respondent college. Both the appointments are teaching faculties and not public services.

10.Considering the facts and circumstances of the case along with the submissions made on either side, the issue involved in the present case is whether the certificates obtained by the petitioner are equivalent to Co-operation or not. To that effect, both the Annamalai and Manonmaniam Sundaranar Universities issued equivalence and relevance certificates as if that two courses viz., M.Com., (Rural Economics and Co-operation) and Ph.D., in Commerce studied by the petitioner in their respective Universities are equivalent to M.Com., (Co-operation) and Ph.D., in Discipline of Co-operation. When the concerned Universities issued equivalence and relevance certificates, in-action on the part of the 2nd respondent to issue orders declaring completion of petitioner's probation is unsustainable. Further, the 2nd respondent claimed that G.O.No.27, Higher Education (K2) Department, dated 13.02.2014 in and by which, appointment made in favour of the said Vanathammal is related to the employment in public services. Further, this Court has perused the Government Order referred by the 2nd respondent, which clearly says that a person who possesses M.Com., (Co-operative Management) is eligible to get appointment in Co-operative Department.

11.A perusal of G.O.No.208, Higher Education (F2) Department, dated 29.10.2012 reveals that one Vanathammal, who has same qualification as that of the petitioner was appointed

as Assistant Professor in the Government Arts College, Salem. The petitioner has also joined in the 5th respondent college as Assistant Professor in Co-operative Department and hence, the stand taken by the 2nd respondent is unreasonable. In para-8 of the counter affidavit, the 2nd respondent claimed that M.A. (Economics & Co-operation) degree is not yet declared as equivalent to M.Com. (Co-operation) by appropriate authority. However, in the present case, the petitioner obtained equivalence and relevance certificates from both Annamalai and Manonmaniam Sundaranar Universities. In view of the said certificates, M.Com., and Ph.D., degrees obtained by the petitioner can be declared as equivalent to M.Com., in Co-operation and Ph.D. in Co-operation.

12.For the foregoing reasons, I am inclined to issue a direction to the 2nd respondent to accept the qualifications of the petitioner in the light of the equivalence and relevance certificates issued by both Annamalai and Manonmaniam Sundaranar Universities dated 22.03.2016 and 03.05.2016 in terms of G.O.No.27, Higher Education (K2) Department, dated 13.02.2014 and declare the probation of the petitioner within a period of twelve weeks from the date of receipt of a copy of this order.

13.In the result, the writ petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

kj

To

1.The Secretary
Higher Education Department
Secretariat, Fort. St. George
Chennai-600 009.

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+1cc to Mr.N.A.Nissar Ahmed, Advocate in SR.92865
+1cc to Mr.V.S.Jadeesan, Advocate in SR.92071
+1cc to Mr.L.P.Shanmugasundaram, Advocate in SR.92402

W.P.No.16905 of 2019

VBA(CO)
CB(02/01/2020)