

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28737 of 2019

and

W.M.P.No.28487, 28488, 28491 and 28492 of 2019

1.V.K.Murugezhilan

2.M.Anandan

... Petitioners

Vs.

1.The State of Tamilnadu,
represented by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.

3.The Chairman,
Teacher Recruitment Board,
4th Floor, E.V.K.Sampath Maaligai,
DPI Campus, College Road,
Chennai - 600 006.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned Notification No.10/2019 dated 12.06.2019 issued by the third respondent and to quash the same in so far as prescription of qualification for the post of Physical Education Director Grade-I is concerned and consequently directing the respondents to conduct selection to the post of Physical Education Director Grade-I based on the qualification prescribed for the post of Physical Education Director Grade-I under Special Rules for Higher Secondary Educational Service notified in G.O.Ms.No.720 Education dated 28.04.1981 and to permit the petitioners to participate in the selection based on their qualification.

For Petitioners : Mr.G.Sankaran

For Respondents : Ms.P.Kavitha
Government Advocate

ORDER

This writ petition has been filed to call for the records relating to the impugned Notification No.10/2019 dated 12.06.2019 issued by the third respondent and to quash the same in so far as prescription of qualification for the post of Physical Education Director Grade-I is concerned and consequently directing the respondents to conduct selection to the post of Physical Education Director Grade-I based on the qualification prescribed for the post of Physical Education Director Grade-I under Special Rules for Higher Secondary Educational Service notified in G.O.Ms.No.720 Education dated 28.04.1981 and to permit the petitioners to participate in the selection based on their qualification.

2.The case of the petitioners is that the first petitioner is qualified with B.A., (History) in the year 2000 and M.P.E.S., in the year 2002 and now working as Part Time Physical Education Teacher in Government Higher Secondary School, Okkiyam, Thuraippakkam, Chennai-97 from 2012. The second petitioner is qualified with B.Com., in the year 1999 and M.P.E.S., in the year 2002 and presently working as a Part Time Physical Education Teacher in Government Higher Secondary School, Theneerpatti, Thiruverumbur, Trichy District. Both the petitioners are qualified for the post of Physical Education Director Grade-I in Higher Secondary School prescribed under Special Rules for Tamil Nadu Higher Secondary Education Service notified in G.O.Ms.No.720 Education Department dated 28.04.1981.

3.As per G.O.Ms.No.27, School Education Department, dated 31.01.2000, the M.P.E.S., degree is eligible for appointment to the post of P.E.T/ Physical Director in High/Higher Secondary Schools. As per notification dated 07.11.2014, the Teachers Recruitment Board has conducted selection to the post of Physical Education Director Grade-I, wherein the candidate who possesses any Bachelor's Degree with M.P.Ed., degree, is eligible for the post of Physical Education Director Grade-I. While so, the third respondent issued Notification No.10/2019 dated 12.06.2019, wherein the eligibility for the post is prescribed. It is found in the notification that the Special Rules for the post of Physical Education Director Grade-I has prescribed the qualification as M.P.Ed., or its equivalent degree.

4.The petitioners submitted their applications for the post. But the petitioners were informed that their applications were rejected for the reason 'incorrect application, subject differs in UG and PG'. The petitioners submitted that the statutory rules have not been amended so far. Further on verification of the Notification, it is found that the new Educational qualification has been prescribed by referring to G.O.Ms.No.70, School Education (MS)

Department dated 12.04.2018. Wherein it is found that it relates to adoption of NCTE guidelines on minimum qualification for Teachers and the G.O., does not prescribe any qualification for the post of Physical Education Director Grade-I. Against the rejection of their application, this writ petition has been filed.

5.The learned counsel for the petitioner would submit that in the earlier notification for the very same post published on 07.11.2014, it is prescribed that the candidates should have any Bachelor's Degree with M.P.Ed., Degree and all degrees should be from UGC / NCTE recognised Universities only. However, the present notification dated 12.06.2019 prescribed with the qualification as per G.O.No.70, School Education Department(MS) dated 12.04.2018, is irrelevant and the same is contrary to the earlier notification dated 07.11.2014 which is bad in law.

6.As per the rules, the minimum qualification for the post of Physical Education Director Grade-I in Higher Secondary Schools, they must possess i)a M.P.Ed., degree of University in the state or a degree of equivalent standard ; or ii) a Diploma equivalent to M.P.Ed., degree. In the present case, the petitioners possess M.P.E.S. degree which is claimed to be equivalent to M.P.Ed., degree.

7.The learned Government Advocate appearing for the respondents submitted that the petitioners possess M.P.E.S., degree that too, in the year 2002 in the Annamalai University which is not equivalent to M.P.Ed., degree and for which G.O. (Ms)No.143, School Education (SE3(1)) Department, dated 19.08.2019, was issued. Wherein the Agenda No.3 states that the "Educational Qualifications- Consideration of Master of Physical Education and Sports Science (MPES) (2 year course) awarded by Annamalai University as to whether equivalent to B.P.Ed., (One Year) awarded by Annamalai University, Bharathidasan University, Manonmaniam Sundaranar University, Bharathiar University - Equivalent" .

8.In the present case, the petitioners possess M.P.E.S. degree which is equivalent to B.P.Ed., (one Year) and not M.P.Ed., degree. M.P.Ed., degree is a master degree and the petitioners possess only an equivalent B.P.Ed., degree which cannot be considered.

9.This Court perused G.O.No.70, School Education Department(MS) dated 12.04.2018 which relates to the Right of Children to Free and Compulsory Education (RTE) Act, 2009 and the teachers were recruited to give free and compulsory education to the children. Hence, the said G.O. does not prescribe any qualification for the Physical Education Director for Higher Secondary Schools. However, the relevant rules prescribed by the Government for the post of Physical

Education Director for Higher Secondary Schools is a M.P.Ed., degree and the petitioners claim that their qualification of M.P.E.S., degree is equivalent to M.P.Ed., degree. But as per G.O.(Ms)No.143, School Education (SE3(1)) Department, dated 19.08.2019, the M.P.E.S., degree is equivalent only to B.P.Ed., degree and for the post of Physical Education Director Grade-I, M.P.Ed., degree is needed.

10. Therefore, the claim of the petitioner cannot be considered in the present writ petition. Therefore, liberty is granted to the petitioner to produce an equivalent certificate stating that M.P.E.S., degree is equivalent to M.P.Ed., degree. If such a certificate is produced, the same shall be considered by the authority and orders can be passed.

11. With the above observation, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
State of Tamilnadu,
School Education Department,
Secretariat, Fort St. George,
Chennai-600 009.
2. The Director of School Education,
DPI Campus, College Road, Chennai-600 006.
3. The Chairman,
Teacher Recruitment Board,
4th Floor, E.V.K. Sampath Maaligai,
DPI Campus, College Road,
Chennai - 600 006.

+1cc to the Government Pleader Sr.89195
+2cc to Mr.G.Sankaran, Advocate Sr.88642

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and

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