

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :21.11.2019
CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.29313, 29709, 31303, 31725, 31803, 31889, 32007, 32136,
32218 of 2019

Reserved on	Delivered on
12.11.2019, 13.11.2019, 14.11.2019	21.11.2019

R.SUBRAMANIAN

P.VENKATESAN ...PETITIONERS IN WP NO.29313/2019

R.RAMYA ...PETITIONER IN WP NO.29709/2019

DR.C.PRIYALAKSHMI ... PETITIONER IN WP NO.31303/2019

DR.P.PERIYASAMY ... PETITIONER IN WP NO.31725/2019

K.DEVANATHAN ...PETITIONER IN WP NO.31803/2019

DR.T.SIVARAMAN ...PETITIONER IN WP NO.31889/2019

DR.M.ELAMPARITHI ... PETITIONER IN WP NO.32007/2019

1. DR.P.S.NATARAJAN

2. S.JAYAPRAKASH

3. S.VADIVEL

4. S.SHANTHI

5. A.SANGEETHA

6. Y.PARIMALA

सत्यमेव जयते ...PETITIONERS IN WP NO.32136/2019

DR.K.VASUDEVAN ...PETITIONER IN WP NO.32218/2019

- VS -

1 THE STATE OF TAMIL NADU
REP. BY ITS PRINCIPAL SECRETARY TO
GOVERNMENT HIGHER EDUCATION DEPARTMENT
SECRETARIAT FORT ST.GEORGE CHENNAI-600 009

2 THE DIRECTOR OF COLLEGIATE EDUCATION,
DPI CAMPUS COLLEGE ROAD, CHENNAI -600 006

3 THE CHAIRMAN,
TEACHERS RECRUITMENT BOARD 4TH FLOOR E.V.K.
SAMPATH MAALIGAI DPI CAMPUS COLLEGE ROAD,
CHENNAI - 600 006

.. RESPONDENTS IN WP NO.29313,29709 &
32136/2019

1 GOVERNMENT OF TAMIL NADU
REP. BY ITS SECRETARY TO GOVERNMENT HIGHER
EDUCATION DEPARTMENT, SECRETARIAT,
CHENNAI - 600009.

2 TEACHERS RECRUITMENT BOARD
REP. BY ITS MEMBER/ SECRETARY 4TH FLOOR
EVK SAMPATH MAALIGAI DPI CAMPUS COLLEGE
ROAD CHENNAI - 600006

3 REGIONAL JOINT DIRECTOR OF COLLEGIATE EDUCATION,
DHARMAPURI GOVT. ARTS COLLEGE CAMPUS,
DHARMAPURI - 636705.

4 THE PRINCIPAL,
GOVERNMENT ARTS COLLEGE FOR MEN,
KRISHNAGIRI 635001.

...RESPONDENTS IN WP NO.31303/2019

1 THE GOVERNMENT OF TAMIL NADU
REP. BY ITS SECRETARY TO GOVERNMENT HIGHER
EDUCATION DEPARTMENT SECRETARIAT,
CHENNAI 600 009.

2 THE DIRECTOR OF COLLEGIATE
EDUCATION DPI CAMPUS COLLEGE ROAD,
CHENNAI 600 006.

3 TEACHERS RECRUITMENT BOARD,
REP. BY ITS MEMBER SECRETARY, 4TH FLOOR,
EVK SAMPATH MAALIGAI DPI CAMPUS COLLEGE ROAD,
CHENNAI 600 006.

4 JOINT DIRECTOR OF COLLEGIATE
EDUCATION COIMBATORE REGION,
COIMBATORE 641 018.

...RESPONDENTS IN WP NO.31725,
32007 & 32218/2019

1. DIRECTOR OF SCHOOL EDUCATION,
NO.17 COLLEGE ROAD, DPI CAMPUS,
CHENNAI 6.

2. THE JOINT DIRECTOR OF COLLEGIATE
EDUCATION VELLORE REGION,
VELLORE 632 006.

3. THE PRINCIPAL GOVERNMENT ARTS COLLEGE,
GRADE I, CHIDAMBARAM 608 102.

.. RESPONDENTS IN WP NO.31803/2019

1 THE GOVERNMENT OF TAMIL NADU
REP. BY ITS SECRETARY TO GOVERNMENT HIGHER
EDUCATION DEPARTMENT SECRETARIAT
CHENNAI - 600009

2 THE DIRECTOR COLLEGIATE EDUCATION
DPI CAMPUS COLLEGE ROAD,
CHENNAI - 600006.

3 TEACHERS RECRUITMENT BOARD
REP. BY ITS MEMBER SECRETARY 4TH FLOOR,
EVK SAMPATH MAALIGAI DPI CAMPUS COLLEGE ROAD
CHENNAI 600006.

4 JOINT DIRECTOR OF COLLEGIATE
EDUCATION VELLORE REGION VELLORE

5 THE REGISTRAR ,
THIRUVALLURVAR UNIVERSITY VELLORE.

....RESPONDENTS IN WP NO.31889/2019

Prayer in WP No.29313 of 2019: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned Notification issued by the 3rd Respondent in Notification No 12/2019 dated 28.08.2019 and 04.10.2019 and to quash the same in so far as Clause 13 relates to Scheme of Selection is concerned and consequently directing the Respondents to follow the method of selection by conducting Written Examination in order to ensure merit in selection in consonance with Article 14 and Article 16 of Constitution of India and pass further orders.

Prayer in WP No.29709 of 2019: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned Notification issued by the 3rd Respondent in Notification No 12/2019 dated 28.8.19 and 4.10.19 and to quash the same in so far as Clause 15 relates to yardstick for awarding marks for teaching experience and the relevant Annexure in Format- I/II/III-A(ANNEXURE) Teaching Experience consolidated is concerned and consequently Directing the Respondents to award marks for each year of Teaching Experience from the date of Appointment of the Petitioner in the post of Lecturer in English with requisite qualification prescribed by university grants commission regulations for selection to the post of Assistant professor and to pass further orders.

Prayer in WP No.31303 of 2019: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus Calling for the records pertaining to the impugned Teaching Experience Certificate dated 23.10.2019 issued by the 4th Respondent and quash the same consequentially direct the Respondents 3 and 4 to issue the Teaching Experience Certificate in the prescribed Format to the petitioner for a total period of 8 years (Rounded off to 8 years as she worked for 7 years 8 months and 5 days) with counter signature at the earliest by awarding 15 marks in respect of the recruitment to the post of Assistant Professors in Tamil Nadu Collegiate for Education for the year 2018-19 as per the revised notification by the 2nd Respondent without any delay

Prayer in WP No.31725 of 2019: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus Calling for the records pertaining to the impugned notification No.12/2019 dated 28/08/2019 and 04/10/2019 issued by 3rd respondent so far as the table annexed teaching experience consolidated form is concerned and quash the same and consequently direct the respondents 4 and 5 to issue the teaching experience certificate in the prescribed format with counter signature to the petitioner for the period from 01/10/2010 to 30/12/2016 at the earliest to award 15 maximum marks in respect of the recruitment to the post of Assistant Professors in Tamil Nadu Collegiate Educational service for Arts and Science colleges and colleges for education for the year 2018-2019.

Prayer in WP No.31803 of 2019: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus Directing the respondents to issue

Teaching Experience Certificate to the petitioner forthwith for the periods from 2012 to 2016 and 2017 . 2018 based on his representation dated 16.10.2019

Prayer in WP No.31889 of 2019: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned notification No. 12/ 2019 dated 28.08.2019 and 04.10.2019 issued by 3rd respondent so far as the table annexed teaching experience consolidated form is concerned and quash the same and consequently direct the 4th and 5th respondents to issue the teaching experience certificate in the prescribed format with counter signature to the petitioner for the period from 22.11.2010 to 01.09.2017 at the earliest to award 15 maximum marks in respect of the recruitment to the post of Assistant Professors in Tamil Nadu Collegiate Educational service for Arts and Science colleges and colleges for education for the year 2018-19

Prayer in WP No.32007 of 2019: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned notification No.12/2019 dated 28.8.2019 and 4.10.2019 issued by 3rd respondent so far as the table annexed teaching experience consolidated form is concerned and quash the same and consequently direct the 4th respondent to issue the teaching experience certificate in the prescribed format with counter signature to the petitioner for the period from 1.7.2011 to 11.4.2017 at the earliest to award 15 maximum marks in respect of the recruitment to the post of Assistant Professors in Tamil Nadu Collegiate Educational Service for Arts and Science Colleges and Colleges for Education for the year 2018-19

Prayer in WP No.32136 of 2019: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus To call for the records relating to the impugned Notification issued by the 3rd Respondent in Notification No. 12/ 2019 dated 28.08.2019 04.10.2019 and 30.10.2019 and to quash the same in so far as Clause 15 relates to yardstick for awarding marks for Teaching Experience and the relevant Annexure in Format - I/ II/ III-A (Annexure) Teaching Experience - Consolidated is concerned and consequently directing the Respondents to award marks for each year of Teaching Experience from the date of appointment of the Petitioners in their respective post with requisite qualification prescribed by University Grants Professor

Prayer in WP No.32218 of 2019: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus Calling for the records pertaining to the impugned notification No.12/ 2019 dated 28.08.2019 and 04.10.2019 issued by the 3rd respondent so far as the table annexed teaching experience consolidated form is concerned and quash the same and consequently direct the 4th respondent to issue the teaching experience certificate in the prescribed format with counter signature to the petitioner for the period from 30.06.2010 to 11.06.2017 at the earliest to award 15 maximum marks in respect of the recruitment to the post of Assistant Professors in Tamil Nadu Collegiate Educational service for Arts and Science Colleges and Colleges for education for the year 2018-2019

W.P.No.29313 of 2019

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.Vijay Narayan

1 and 2

Advocate General assisted by

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

For R3

: Mr.S.T.S.Moorthy AAG(IV) (TRB)

Assisted by

Mr.C.Munusamy, Spl.G.P. (Edn)

W.P.No.29709 of 2019

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.Vijay Narayan

1 and 2

Advocate General assisted by

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

For R3

: Mr.S.T.S.Moorthy AAG(IV) (TRB)

Assisted by

Mr.C.Munusamy, Spl.G.P. (Edn)

W.P.No.31303 of 2019

For Petitioner : Mr.R.Neelakandan

For Respondents: Mr.Vijay Narayan

1 and 3

Advocate General assisted by

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

For R2

: Mr.S.T.S.Moorthy AAG(IV) (TRB)

Assisted by Mr.C.Munusamy,

Spl.G.P. (Edn)

W.P.No.31725 of 2019

For Petitioner : Mr.R.Neelakandan

For Respondents: Mr.Vijay Narayan
1,2 and 4 Advocate General assisted by
Mr.V.Kadhirvelu, Spl.G.P.

For R3 : Mr.S.T.S.Moorthy AAG(IV) (TRB)
Assisted by Mr.C.Munusamy,
Spl.G.P. (Edn)

W.P.No.31803 of 2019

For Petitioner : Mr.K.Balu

For Respondents: Mr.Vijay Narayan
Advocate General assisted by
Mr.V.Kadhirvelu, Spl.G.P.

W.P.Nos.31889, 32007 and 32218 of 2019

For Petitioner :Mr.R.Neelakandan

For R1, R2 & R4:Mr.Vijay Narayan
Advocate General assisted by
Mr.V.Kadhirvelu, Spl.G.P.

For R3 : Mr.S.T.S.Moorthy AAG(IV) (TRB)
Assisted by Mr.C.Munusamy,
Spl.G.P. (Edn)

W.P.No.32136 of 2019

For Petitioner : Mr.S.Mohana Vadivelan

For Respondents: Mr.Vijay Narayan
1 and 2 Advocate General assisted by
Mr.V.Kadhirvelu, Spl.G.P.

For R3 : Mr.S.T.S.Moorthy AAG(IV) (TRB)
Assisted by Mr.C.Munusamy,
Spl.G.P. (Edn)

C O M M O N O R D E R

The above writ petitions are filed challenging the impugned Notification issued by the 3rd respondent/TRB in Notification No.12/2019, dated 28.08.2019 and 04.10.2019 and impugned technical experience certificate dated 23.10.2019 issued by the 4th respondent, insofar as clause 13 relates to scheme of selection and clause 15 relates to yardstick for awarding marks for teaching experience and the relevant Annexures in Format I/II/III-A(Annexure) Teaching Experience consolidated are concerned and consequently (i) directing the respondents to follow the method of selection by conducting written examination in order to ensure merit in selection in consonance with Article 14 and Article 16 of the Constitution of India and (ii) award marks for each year of teaching experience from the date of appointment of the petitioner in the post of lecturer in English with requisite qualification prescribed by University Grants Commission Regulations for selection to the post of Assistant Professor and (iii) directing the respondents to issue the teaching experience certificate in the prescribed format with counter signature to the petitioners.

2. The sum and substance of the averments made in the affidavits filed in support of the writ petitions are as follows.

(i) The case of the petitioners is that the petitioners are working as lecturers in different colleges. Aggrieved against the method of selection notified in selection for the post of Assistant Professor in Notification No.12/2019, dated 04.10.2019 issued by the Teachers Recruitment Board (hereinafter referred to as 'TRB' in short), they filed the above writ petitions. The petitioners are challenging the Notification on the ground that they are eligible for selection and appointment for the post of Assistant Professor in Tamil Nadu Collegiate Education Service. The petitioners were qualified with Post Graduate degrees, M.Phil, NET with JRF and Ph.D. They are qualified for appointment to the post of Assistant Professor in the relevant subject as per University Grants Commission (hereinafter referred to as 'UGC' in short) Regulations and Special Rules for Tamil Nadu Collegiate Education Service.

(ii) TRB issued Notification dated 28.08.2019 inviting applications for direct recruitment from eligible candidates for the post of Assistant Professor in Tamil Nadu Collegiate Education Service for Government Arts and Science Colleges and Colleges for Education for the year 2018-2019. As per the Notification, the applications through online mode should be

made to commence from 04.09.2019 onwards. However, subsequently, a notice was issued by the TRB that due to technical reasons, the online registration for direct recruitment of Assistant Professor is postponed from the scheduled date and the new date for online registration will be announced shortly.

(iii) While so, the TRB issued fresh Notification No.12/2019, dated 04.10.2019 for direct recruitment to the post of Assistant Professor in Government Arts and Science Colleges with date of commencement of application through online mode as 04.10.2019 and fixed the last date for submitting applications on 30.10.2019. The date of Certificate Verification and interview would be announced later. As per the impugned notification, 2331 vacancies have been notified for the post of Assistant Professor in various subjects. Educational qualification for the post is prescribed as follows:

"6.Qualifications:

b) Educational Qualifications:

i. For General Candidates : A Pass in Post-Graduate Degree in the relevant subject with a minimum of 55% marks and a pass in the NET/SLET/SET/SLST/CSIR/JRF as per UGC Norms in the relevant subject.

(or)

A Pass in Post-Graduate Degree in the relevant subject with a minimum of 55% marks and Ph.D in the relevant subject awarded as per UGC norms (Certificate of compliance to be obtained from competent authority of the concerned University - to be submitted at the time of Certificate Verification)."

(iv) Apart from educational qualification, as per the scheme of selection as notified, there will be awarding of weightage marks for teaching experience - 15 marks, for qualification - 9 marks, for interview - 10 marks and total aggregate mark is 34 marks. The selection will be made based on the total marks both weightage marks and interview marks. For easy reference, method of selection for awarding marks is as follows:

		Maximum
1.	For Teaching experience (Teaching experience in Universities / Government / Aided Colleges/under approved posts of self financing colleges/Medical/Engineering/law Colleges in the relevant subject alone will be considered. (2 marks for each year and subject to a maximum of 15 marks). The candidate teaching experience in the relevant subject alone will be considered)	15 Marks
2.	Qualification	
	a.For Ph.D in concerned subject-9 marks	9 Marks
	b.For M.Phil with SLET/NET/SET - 6 marks	
	c.For PG&SLET/NET/SET - 5 marks	
3.	Interview	10 Marks
	Total	34 Marks

(v) Clause 15 of the Notification relates to the teaching experience certificate and countersigning authority. At the end of clause 15, the Notification refers to yardstick for awarding marks for teaching experience which includes the tabulation relating to qualification prescribed by the UGC for appointment of Assistant Professor. The said yardstick being incorporated in the Prospectus based on the judgment of this Court dated 12.07.2013 made in W.P.No.18186 of 2013 and the Government letter dated 31.07.2013. It denotes the fact that in order to get weightage marks for teaching experience, one must have been appointed in the post of Lecturer/Assistant Professor with requisite qualification prescribed by UGC at the relevant point of time. Otherwise, they are not entitled for teaching experience.

(vi) As per the Annexure to the Notification, which contains the Format-I/II/III-A prescribing qualification for awarding weightage marks, it is found that the black columns for the particular qualification are not entitled for teaching experience with reference to the relevant year. Whereas in the ratio laid down by this Court vide order dated 12.07.2013 made in W.P.No.18186 of 2013 dated 12.07.2013, the teaching experience cannot be tested based on the requisite qualifications by the UGC regulations for the subsequent period. The said order made it clear that once a candidate appointed with requisite qualification as per the regulation prevailing at the relevant point of time is entitled to count the teaching

experience from the date of initial appointment, notwithstanding the fact that the qualification defers in the subsequent period.

(vii) Whereas in the present Notification, the order of this Court dated 12.07.2013 made in W.P.No.18186 of 2013 has been miserably misconceived to state that the teaching experience can be counted for the candidates working for several years on appointment with requisite qualification, only if he possess the changed qualification in the subsequent years. Challenging the same and for awarding marks to teaching experience, one set of writ petitions are filed.

(viii) Another set of writ petitions are filed challenging the very same Notification in respect of clause 13 which relates to scheme of selection and seeking a direction to the respondents to follow the method of selection by conducting written examination in order to ensure merit in selection in consonance with Article 14 and Article 16 of the Constitution of India. TRB issued impugned notification for selection to the post of Assistant Professor in various subjects and the method of selection is incorporated to award weightage marks for teaching experience, educational qualification and interview by allocating 15 marks for teaching experience, 9 marks for educational qualification and 10 marks for interview. Accordingly, the method of selection is totally based on the interview marks apart from awarding weightage marks and any such method of practice has been deprecated by the order of the Hon'ble Apex Court in as much as any selection solely based on interview marks is opposed to law and against Article 14 and Article 16 of the Constitution of India. In the event of 10 marks out of 34 marks is allotted for interview, it will be more than 29.4% marks out of total marks and thereby it suffers lack of merit and transparency in the matter of selection as per the ratio laid down by the Hon'ble Apex Court in catena of decisions. Therefore, the petitioners pray for allowing the writ petitions.

3.The sum and substance of the counter affidavits filed by the respondents 1 and 2 are as follows:

(i) The Recruitment Board issued a Notification dated 28.08.2019 through website and prominent English and Tamil Dailies regarding recruitment including announcement of dates of registration through online mode. Due to technical issues in the application process by online mode, second Notification was issued on 04.10.2019 with the last date of submission of application being fixed on 30.10.2019. Totally, 2331 vacancies have been notified as vacant in the posts of Assistant Professor in various subjects throughout Tamil Nadu. A detailed marking

system by way of weightage marks and interview marks has been prescribed as the mode of selection to the post of Assistant Professor. Accordingly, the candidates can obtain a maximum of 15 marks for teaching experience, a maximum of 9 marks for qualification of Ph.D., 6 marks for M.Phil with SLET/NET/SET, 5 marks for PG degree with SLET/NET/SET and 10 marks for interview.

(ii) For the purpose of determination of teaching experience, this Court has already passed order dated 12.07.2013 in W.P.No.18186 of 2013. The said order is taken as letter and spirit of law, the order was implemented and the same shall be the yardstick for determination of teaching experience. The following are the qualifications for more than 25 years and the same shall be taken for awarding marks for the teaching experience.

S.No.	Date	Qualification prescribed by UGC for appointment of Lecturers in College/Universities
1.	Before 1991	PG with 50% minimum marks
2.	19.09.1991	PG with 55% minimum marks with Pass NET/SLET
3.	1993	PG with 55% minimum marks with Pass NET/SLET Exemption for those who completed M.Phil before 31.12.1993 (or) submitted Ph.D. dissertation before 31.12.1993
4.	31.07.2002	PG with 55% marks with NET/SLET. Exemption for Ph.D. dissertation submitted before 31.12.2002
5.	14.06.2006	PG with 55% minimum marks with NET/SLET. Exemption for M.Phil for taking UG class and Ph.D. for taking PG class
6.	30.06.2010	PG with 55% minimum marks with NET/SLET Exemption only for Ph.D. holders.

(iii) This Court has also issued a direction to the Recruitment Board to clarify the candidates by way of notification in the newspapers that during relevant period, the qualification mentioned above at the relevant point of time can be considered for awarding marks for teaching experience. Immediately, thereafter, the Government issued letter No.12258A/F2/2013-3, dated 31.07.2013 regarding clarification on the implementation of the order of this Court dated 12.07.2013 made in W.P.No.18186 of 2013 and the same has been clarified. The said order has been complied with, since it is in conformity with the guidelines laid down by University Grants Commission

for such recruitments of Assistant Professor post. A person to obtain a minimum qualification at the relevant point of time prescribed by UGC as mentioned above. The teaching experience shall appropriately be calculated to the above prescribed qualification.

(iv) Further in the letter dated 31.07.2013 to ensure that candidates possess qualifications prescribed by UGC at the relevant period as indicated in para-20 of the order dated 12.07.2013 in W.P.No.18186 of 2013 for awarding marks for teaching experience.

(v) Scheme of selection prescribed by the Government and adopted by the Recruitment Board are correct considering all the aspects for the post of Assistant Professor. The right to equality in public employment as enshrined under Article 16 of the Constitution of India and fair reasonable procedure was well followed and adopted. The petitioners are unnecessarily apprehended that the scheme of selection process under the notification if allowed, would not get fair chances. Following the above guidelines, the Chief Secretary of the Government of Tamil Nadu has conducted meeting on 18.07.2019 in this regard and instructed that necessary steps should be taken to fill up the posts of Assistant Professor during the agenda of the meeting. Accordingly, there are now 2331 vacancies in the post of Assistant Professors and the same has to be recruited speedily since all the selected Assistant Professors have to be posted in the vacant places in the colleges situated all over Tamil Nadu as early as possible in the academic year 2019-2020. Any delay caused in the selection may affect the educational interest of the poor students.

(vi) In respect of all teaching posts, the selection is conducted by the Teachers Recruitment Board only through competitive examination. In this connection, it is pertinent to point out that the Government have consulted Tamil Nadu State Council for Higher Education (TANSCH), an advisory body in respect of higher education. The Vice Chairperson of the TANSCH has provided a detailed report to the Government and the Government have perused the expert opinion and finally issued the Government order. Therefore, the decision made by the Government, after consultation with the expert body cannot be questioned by the writ petitioners. The reason for formulating the method of selection by way of awarding weightage marks for qualification and teaching experience besides conducting interview in the case of selection of Assistant Professors in Government Arts and Science Colleges and Colleges of Education is as follows:

The Government vide G.O.(Ms.)No.32, Higher Education (F2) Department, dated 08.03.2013 ordered as follows:

"3.The Government has examined the proposal of Chairman, Teachers Recruitment Board in consultation with Vice-chairperson, Tamil Nadu State Council for Higher Education. The Vice-Chairperson, Tamil Nadu State Council for Higher Education has stated that the NET/SET tests are highly competitive. Considering that the candidates have already proved their worth by passing their degree examination and NET/SET test, eliminating interviews altogether and replacing them with other State level written test may prove penalizing for the candidates. She has therefore suggested the following criteria and award of marks for conduct of interview for selection of Assistant Professor in Government Arts and Science Colleges and Colleges of Education.

1.	Content	Whether the candidate presents relevant and well organised subject material	3 marks 30%
2.	Delivery	Whether the candidate is clear, understandable and audible while presenting	3 marks 20%
3.	Language	Whether the candidate is proficient in English / Tamil language and articulates concepts well	2 marks 20%
4.	Personal characteristics	Whether the candidate is confident and possesses a calm disposition	2 marks 20%
		Total	10 marks 100%

(vii) Further, in the Government Letter No.20575A/F2/2011, dated 15.05.2013, the Principal Secretary to Government, Higher Education (F2) Department, Secretariat, Chennai-9 addressed to the Chairman, Teachers Recruitment Board, Chennai-6 in paragraph nos.6 and 7 stated as follows:

"6. In this regard, I am to clarify as follows:

As far as qualification prescribed for the post of Assistant Professors in Government Arts and Science Colleges is concerned, the UGC has prescribed 55% marks at the Masters level and qualifying in the National Eligibility Test or any Accredited Test (which in the case of Tamil Nadu is SLET) or Masters Degree with Ph.D for whom passing NET/SLET is not required. Therefore, the appointment of Assistant Professors in the said colleges are made as per the norms fixed by the UGC. In the case of Lecturers

in Government Polytechnic Colleges and Assistant Professors in Government Engineering Colleges, the appointments are made as per the qualification prescribed by the AICTE. Therefore, the post of Assistant Professors in Government Arts and Science Colleges cannot be equated with Lecturers/Assistant Professors in Government Polytechnic Colleges and Government Engineering Colleges respectively. However, Science and Humanity subjects are taught in Government Arts and Science colleges for a period of three years, whereas the same are taught only in the first year of polytechnic and first and second year of Engineering Colleges. The syllabus, method of teaching in Government Arts and Science Colleges are different from those in Government Polytechnic colleges and Government Engineering Colleges. Therefore, the Government can have different recruitment methods based on the syllabus, method of teaching and other relevant factors and norms prescribed by UGC/AICTE as the case may be.

7.I am to inform you that that candidates have to pass SLET/NET Examinations and marks are awarded to the candidates who have passed SLET/NET examination along with PG Degree and M.Phil Degree in the selection of Assistant Professors in Government Arts and Science Colleges and Colleges of Education. Therefore, conducting another written test for the above posts will put extra burden on the candidates. Further, interview has been strengthened by prescribing various criteria and awarding marks for the same as explained in para 3 above."

(viii) Selection procedure for the above post was clearly mentioned in the notification as prescribed under clause 13 of the Notification. The selection process is based on G.O.Ms.No.412, Higher Education (F2) Department, dated 07.12.2009. The students admitted in Government College in the Under Graduate level courses are more in number. They belong to the group of adolescent age. The social, personal and psychological problems of these students need to be faced by an experienced teaching staff. To overcome the problems of the students, it is much needed to appoint experienced Faculties who possess rich experience in class room handling and also counselling the students' day to day problems.

(ix) The method of selection for the post of Assistant Professors in Government Arts and Science colleges would be selected without any written examination, since the aspirants of the post have already completed NET/SLET/SET, further some aspirants have qualified with M.Phil and Ph.D, further most of the aspirants have previous teaching experience in the same subjects and considering all these subjects, the Government of Tamil Nadu has considered the matter in depth that further

examination would overburden them and accordingly, it is considered that it is not necessary for any written examination and the matter was very clearly explained in the Government letter No.1390/F2/2018-1, dated 28.02.2018.

(x) The selection procedure for the post of Assistant Professors based on the interview cannot be termed as arbitrary, illegal against law since as per clause 13 of the scheme of selection of the Teachers Recruitment Board notification, it is clearly informed that there are two stage of selection. As per first stage, the candidate will be ranked and short listed subject wise in the ratio of 1:3 based on the information provided in certificates. The second stage is interview and will be conducted by the Board constituted by the Teachers Recruitment Board.

(xi) G.O.(Ms)No.145, issued on 06.07.2018 by the Higher Education Department has exclusively dealt with the Revision of pay and allowances to the College Teachers and the Universities in the Government of Tamil Nadu. The G.O is not meant for recruitment, qualification and selection procedure. Para 7 of the above G.O speaking about guidelines for selection procedure is only for a formal reference. The Higher Education Department has already issued a Government Letter No.1390/F2/2018-1, dated 28.02.2018, exempting written examination for the post of Assistant Professor, which is still in force.

(xii) The Government has taken policy decision to make selection for the post of Assistant Professor on the basis of weightage marks awarded for teaching experience and qualification. It is the policy decision of the Government to conduct interview if the candidates were found eligible on teaching experience and qualification. Therefore, prescribing method for the selection is the policy decision for the Government and there is no arbitrariness and illegality in the policy decision and no malafide intention in framing the policy.

(xiii) Since there are totally 73 streams of different subjects, it is highly impracticable for the board to conduct common written examinations for all candidates wherein each candidate would have been specialized only in one particular subject and at the same time the board cannot conduct examination for each subject for the concerned candidates, which will be a tedious task for the selection. Further it is not practically feasible to conduct examination for 73 streams of different subjects and the Government has thought that it is fit to award weightage marks and conduct an interview so as to select the best candidates for the post of Assistant Professor.

4.The sum and substance of the counter affidavits filed by the 3rd respondent/TRB are as follows:

(i) The 3rd respondent has reiterated some of the averments made in the counter affidavits filed by the respondents 1 and 2 and hence, the same need not be reiterated again.

(ii) Petitioner cannot compel the recruiting agency to conduct written examination. In this regard, the Hon'ble Court of Madras has already given the judgment in W.P.No.15913 of 2017 and Writ Appeal No.1085 of 2017.

'Decision in Ajay Hasia's case is made applicable to the case on hand. Criteria stated supra is to all the candidates who have applied for the post of Assistant Professors in Tamil Nadu Collegiate Educational Service for appointment in Government Arts Colleges. Appellant/writ petitioners, have no right to insist that selection should be made through competitive examination, in consonance with Article 14 and 16 of the Constitution of India. Prescription of educational qualifications and methods of selection is purely the prerogative of the appointing authority. In the case on hand, all are treated equally and their inter se merit is decided on the basis of their teaching experience, educational qualifications and interview. Process of selection is not arbitrary, Writ appeal is dismissed.'

(iii) A candidate for the Post of Assistant Professors who has cleared NATIONAL ELIGIBILITY TEST or STATE ELIGIBILITY TEST exam is deemed to be a qualified Assistant Professors as per the University Grants Commission Norms and regulations. In this regard, further evaluation by conducting written examination to such candidates would be a burden to them and further the selection process would prolong for a longer duration and it cannot be completed within a stipulated time and based on this Ground, the Government has considered the matter in depth and decided that the written exam for the Post of Assistant Professors is not necessary.

(iv) Petitioners cannot dictate terms that the method and mode of selection to the post of Assistant Professor should include the written competitive examinations also and not to be limited only by recruiting the candidates on the basis of weightage marks followed by interview. It is prerogative of the Government in deciding the mode and method of selection for recruitment to the Post of Assistant Professor in Government Arts and Science College.

(v) Teacher Recruitment Board has notified the selection procedure and qualification as per the University Grants

Commission Regulation. The University Grants Commission Regulations does not insist any written examination other than NATIONAL ELIGIBILITY TEST or STATE ELIGIBILITY TEST. The Teacher Recruitment Board has very strictly followed up to date all the procedure and regulation of the University Grants Commission and the University Grants Commission finally and lastly notified the qualifications for the Post of Assistant Professors on 18.07.2018.

(vi) Yardstick for awarding marks for teaching experience is based on the judgment passed in W.P.No.18186 of 2013 dated 12.07.2013 that the teaching experience cannot be tested based on the requisite qualification by the UGC Regulations for the subsequent period.

5.Mr.G.Sankaran, learned counsel appearing for the petitioners has made the following submissions:

(i) The petitioners are working as Lecturers in different colleges and they have possessed requisite qualifications to participate in the selection process. The grievance of the petitioners is that though they have possessed requisite qualifications as per UGC Regulations prevailing at the relevant point of time, any change of qualification made in the subsequent years by UGC cannot be deprived their rights to get the teaching experience certificate from the authority. TRB has misconstrued the decision of this Court dated 12.07.2013 made in W.P.No.18186 of 2013 for awarding marks with regard to teaching experience.

(ii) The petitioners are mainly challenging the Annexure to the Notification contains Format-I/II/III-A, which finds place in page No.63 of the typed set of papers filed in W.P.No.29709 of 2019. Wherein it is stated that a person with Post Graduate with 55% marks along with NET/SLET/CISR for SC/SCA/ST/differently abled-50% marks, alone is entitled after September 1991. For awarding weightage marks, there is some discrepancy on the part of the TRB and they have to calculate the period of service already undergone by the candidate. Once it is amended, they are blocking. The petitioners qualified with M.Phil. degree in different years and passed National Eligibility Test. Now the petitioners are working as Lecturers in different colleges. Their appointments were approved by the University based on the UGC Regulations. At the time of their appointment, it is not relevant and after 2016, it is relevant. Unless otherwise the petitioners possessed qualifications of UGC regulations, they cannot apply for the post, merely because they are qualified. He has drawn attention of this Court to clause 13 of the Notification, which relates to scheme of selection,

wherein it is stated that teaching experience with relevant subjects alone will be considered. For teaching experience, they allotted 15 marks, 9 marks for the qualifications they possessed (for Ph.D. - 9 marks, for M.Phil with SLET/NET/SET - 6 marks, for PG and SLET/NET/SET - 5 marks), 10 marks for interview and in total, it is 34 marks.

(iii) Further, the learned counsel has drawn attention of this Court to clause 15 of the Notification, which relates to the teaching experience certificate and countersigning authority. The yardstick for awarding marks for the teaching experience is based on the judgment of this Court dated 12.07.2013 made in W.P.No.18186 of 2013. Based on the qualification possessed by the candidate, period of service with qualification as per the UGC Regulations alone will be taken into consideration. Though appointment was made with necessary qualification approved by the University, according to the respondents, teaching experience can be counted for the candidates working for several years on appointment with requisite qualifications, only if they possess the qualification in the subsequent years. This basically goes against original clause. Whereas the order dated 12.07.2013 made in W.P.No.18186 of 2013 says once a candidate appointed with requisite qualification as per the UGC Regulations prevailing at the relevant point of time is entitled to count the teaching experience from the date of initial appointment, notwithstanding the fact that the qualification defers in the subsequent period.

(iv) One of the columns in the Annexure to the Format contains Post Graduate with M.Phil through correspondence/distance education/Open University system for the year 2006-2008 is blocked. Reason is according to the respondents, UGC has revised regulations from the year 2010 and therefore, petitioners' teaching experience cannot be counted.

(v) He has reiterated the order dated 12.07.2013 made in W.P.No.18186 of 2019 and submitted that teaching experience cannot be tested based on the minimum eligible qualification prescribed for the subsequent period. A candidate must be eligible for appointment as per UGC Regulations in force at the relevant point of time with reference to date of appointment. The said order clearly stated that any change in the qualification by UGC in the subsequent years will not disentitle the candidate to get teaching experience when he was appointed with requisite qualification as per the UGC Regulations in force in the relevant point of time. In support of his contentions, he relied on the following judgments and submitted that the Hon'ble Apex Court has upheld the method of selection notified

in the Government Order awarding weightage marks for academic performance.

(i) (2017) 1 SCC 322 (V.Lavanya and others vs. State of Tamil Nadu and others);

(ii) 1995 Supp (1) SCC 206 (Satpal and others vs. State of Haryana and others);

(iii) Order dated 27.08.2014 made in W.P.No.20290 of 2012 (J.Kovaisamy vs. State of Tamil Nadu and others);

6.Refuting the same, Mr.Vijay Narayan, learned Advocate General appearing for the respondents/Government has made the following submissions:

(i) The above writ petitions are filed by the petitioners challenging the Notification mainly on two grounds; The marks awarded to the teaching experience are not in consonance with the experience gained by the Professors; A person, who acquired the requisite qualification alone is entitled to get the post of Assistant Professor. Though the qualification in the year 1991 is valid, once the person got appointment, after subsequent years, if any higher qualification is fixed for continuing the said post, it is the duty cast upon the person to acquire subsequent qualification in order to continue the said post. Even though they possessed qualifications, they have to acquire the prescribed qualification as per the UGC Regulations to participate in the selection process.

(ii) The very same issue was considered by this Court vide order dated 12.07.2013 made in W.P.No.18186 of 2013. The said order was implemented and accordingly, Government has issued letter No.12258A/F2/2013-3, dated 31.07.2013 regarding clarification on the implementation of the order of this Court and the same has been clarified. The said order has been complied with, since it is in conformity with the guidelines laid down by UGC for such recruitments of Assistant Professor post. Neither the petitioners nor any one has challenged the said letter. When a person has no qualification in teaching experience, he is not entitled to get the post of Assistant Professor and only the candidates, who acquire qualification prescribed by the UGC Regulations can apply and get promotion. As per the Annexure to the Notification contains Format-I/II/III-A prescribing qualification for awarding weightage marks, the black column for the particular qualification is not entitled for teaching experience with reference to the relevant year. The Annexure is for the purpose of awarding marks from 19.09.1991 to till date, based on the certificate produced by the candidates. When a person joined with full qualification, no problem will arise for awarding marks. In Government Colleges

also, this problem arose. Even appointment made prior to the year 1991, we have assigned time limit to the candidates to acquire prescribed qualification. If the candidate has not acquired prescribed qualification, he will not get promotion.

(iii) Learned Advocate General has drawn attention of this Court to clause 13 of the Notification for allotting marks. Even if the Notification is of the year 2010, the petitioners are not entitled for selection. He has reiterated paragraph Nos.8, 9, 17 to 20 of the order dated 12.07.2013 made in W.P.No.18186 of 2013 and submitted that they are not relevant to teaching experience and they are particularly for appointment of particular post. Para-19 is for awarding marks. No recruitment after 2013.

(iv) Intention of the Government is to award marks for a person who acquired higher qualification. In the present case, for teaching experience in Universities for Government/Aided Colleges, the maximum mark is 15 i.e., two marks for each year and subject to a maximum of 15 marks; for qualification, maximum mark is 15 marks, for Ph.D candidates, 9 marks is awarded; for M.Phil with SLET/NET/SET candidates, 6 marks is awarded and for Post Graduate and SLET/NET/SET, 5 marks is awarded and for interview, maximum mark is 10 marks. The very same issue was challenged before this Court by way of W.P.No.15913 of 2017 and the same was disposed of by this Court on 11.07.2017. Aggrieved by the said order, the aggrieved persons have preferred an appeal before this Court in W.A.No.1085 of 2017. On 11.09.2017, the Division Bench of this Court held that the petitioners therein have no right to insist that selection should be made through competitive examination, in consonance with Article 14 and 16 of the Constitution of India. Prescription of educational qualification and method of selection is purely the prerogative of the appointing authority. In the instant case, there are huge number of persons waiting for appointment to the post of Assistant Professor. There are 2331 vacancies and the State invited applications for the post of Assistant Professor from all over the State of Tamil Nadu from eligible candidates who have acquired qualification. In teaching profession, the candidates, who are working as Lecturers in Government Arts and Science Colleges have already gained much experience and therefore, conducting another written test for the above posts will put extra burden on the candidates. Because the syllabus, method of teaching in Government Arts and Science Colleges are different from those in Government Polytechnic and Engineering Colleges. Hence, the State thought it fit to conduct selection process for awarding weightage marks for the teaching experience, qualification and by way of oral interview as per the ratio laid down by the

Hon'ble Apex Court in catena of decisions right from Ajay Hasia's case. In support of his contentions, he relied on the following decisions:

(i) (2000) 7 SCC 719 (Kiran Gupta and others vs. State of U.P. and others);

(ii) Judgment dated 11.09.2017 made in W.A.No.1085 of 2017 (B.Deepan Kumar and others vs. State of Tamil Nadu);

(iii) Judgment dated 11.01.2019 made in W.A.No.2698 of 2018 (Teachers Recruitment Board and another vs. K.Bommi);

(iv) (1981) 1 SCC 722 (Ajay Hasia and others vs. Khalid Mujib Sehravardi and others);

(v) (2011) 6 SCC 605 (Director General, Indian Council for Agricultural Research and others vs. Sundara Raju);

(vi) (2015) 6 SCC 363 (Kalyani Mathivanan vs. K.V.Jeyaraj and others);

(vii) (2017) 1 SCC 322 (V.Lavanya and others vs. State of Tamil Nadu and others);

7.Mr.R.Neelakandan, the learned counsel appearing for the petitioners in W.P.Nos.31725, 31889, 32007 and 32218 of 2019 submitted that they does not challenge entire Notification for the Recruitment, but restricts the claim only in respect of issuance of Teaching Experience Certificate by fully calculating the entire period of their part-time Ph.D course period by implementing clause 15(k) of the Notification with liberty to ventilate the same at the time of certificate verification by TRB.

8.Heard the learned counsel appearing for the petitioners as well as the learned Advocate General appearing for the respondents/Government and learned Additional Advocate General appearing for the TRB.

9.The issues involved in the writ petitions are as follows:

(i) Whether the petitioners are entitled to count the teaching experience from the date of their initial appointment, notwithstanding the fact that the qualification defers in the subsequent period?

(ii) Whether the scheme of selection for awarding weightage marks for teaching experience, qualification and interview is valid or not?

(iii) Whether the scheme of selection has to be conducted as per clause 13 of the Notification for awarding weightage marks or selection has to be conducted only through competitive written examination?

10. Before analysing the issues, I deem it fit to go through the scheme of selection and for better appreciation, clauses 13 and 15 of the Notification, which are challenging in these writ petitions are extracted hereunder:

"13. Scheme of selection: The scheme for selection involves ranking and shortlisting of candidates followed by preparation of rank cum communal roster for certificate verification and interview. The candidates will be shortlisted in the ratio of 1:3. Marks will be awarded to all candidates based on the certificates uploaded along with the Application Forms as per criteria which has to be confirmed/finalized after due verification by the certificate verification team and also the marks awarded during the time of interview, as per G.O.Ms.No.412, Higher Education (F2) Department, dated 07.12.2009 and G.O.Ms.No.32, Higher Education (F2) Department, dated 08.03.2013 as follows:

		Maximum
1.	For Teaching experience (Teaching experience in Universities / Government / Aided Colleges/under approved posts of self financing colleges/Medical/Engineering/law Colleges in the relevant subject alone will be considered. (2 marks for each year and subject to a maximum of 15 marks). The candidate teaching experience in the relevant subject alone will be considered)	15 Marks
2.	Qualification	
	a.For Ph.D in concerned subject-9 marks	9 Marks
	b.For M.Phil with SLET/NET/SET - 6 marks	
	c.For PG&SLET/NET/SET - 5 marks	
3.	Interview	10 Marks
	Total	34 Marks

Note: Awarding of weightage mark for teaching experience will be made as per the orders in the Government Letter No.12258/A/F2/2013-3, dated 31.07.2013 by the Higher Education Department.

a) Stage-I:

Certificate Verification: Candidates will be ranked and shortlisted subject-wise (in the ratio 1:3) based on the information and certificates uploaded during online registration in respect of

items 1 & 2 above. Thereafter, the rank-cum-communal roster will be prepared. Candidates may note that the provisional ranking will be done on the basis of information provided and documents submitted by them through online. During certificate verification if there are any discrepancy in the information provided through online application for awarding weightage marks, the candidature will be summarily rejected and shall be subject to punishment of debarment for the current and future recruitments. Also if any of the information provided by the candidate is found to be false or wrong, criminal action will be initiated against the candidate apart from rejection/debarment of the candidate. Hence, candidates are required to fill in the forms with great care and without making any unsubstantiated claims.

b) Stage II:

Interview: Interview will be conducted by interview Boards to be constituted by the Teachers Recruitment Board. At the time of interview, all original certificates in support of community, qualifications, experience etc., will be verified and in case of any discrepancy between the certificates and information provided in the application form, candidates shall not be considered for selection and they will be debarred from the current and future recruitments. If any of the information provided by the candidate is found to be false or wrong criminal action will be initiated against the candidate apart from rejection/debarment of the candidate. Interview marks will be awarded by testing the candidate as per G.O.(Ms.)No.32, Higher Education (F2) Department, dated 08.03.2013. Interview dates will be informed later.

All candidates shall have the ability to speak, teach and write in Tamil. If a candidate has not studied Tamil Language in SSLC/+2, he/she should pass Tamil language test conducted by Tamil Nadu Public Service Commission, within the stipulated time. The syllabi to be adopted for personal interview will be the latest UGC syllabus for relevant subject at PG level.

15.The teaching experience certificate and Countersigning Authority:

a. The experience certificates have to be uploaded online during the registration itself. Separate forms should be used for each institution. Two original certificates have to be obtained and countersigned by the competent authority.

b. The teaching experience certificates should be in the prescribed format only (Format I, Format II, Format III). The Annexure A is the consolidation of all such formats and self declaration to be given by the candidate). No other format will be considered.

c. The Format I is for Arts & Science Colleges, Medical Colleges, Engineering Colleges and B.Ed., Colleges.

d. The Format II is for Universities and Deemed Universities, Format III is for Foreign Universities. The Annexure A is the consolidation of all such Formats and self declaration to be given by the candidate. (It is the consolidation of the entire Experience of candidate).

e. The experience of candidates will be considered only up to the last date of submission of online application forms.

f. The experience certificates of candidates who worked/are working in Government/Aided/Self-financing Arts and Science colleges should be countersigned by the respective Regional Joint Director of Collegiate Education.

g. The experience certificates of candidates who worked/are working in Government/Aided/Self-financing Engineering colleges should be countersigned by the Director of Technical Education.

h. The teaching experience certificates of candidates who worked/are working in Universities/Deemed Universities should be signed by the concerned Registrar of the University.

i. The teaching experience certificates for those who worked/working in Government/Aided/Self-financing, Law/Medical Colleges in the relevant subjects, should be countersigned by the Joint Director of the concerned Department and in case of Universities/Deemed Universities, by the Registrar of the concerned University.

j. The teaching experience obtained in foreign countries shall have to be countersigned by the competent Authority of Indian Embassy in that

country.

k. Experience Certificate claimed while doing Full-time courses (or) Full-time Ph.D will not be considered. Part Time Ph.D candidates will be awarded weightage marks. In case of any false certificate, TRB will initiate criminal action against the erring individual and the countersigning authority. All experience certificates will be verified by a competent authority during Certificate Verification.

S.No.	Date	Qualification prescribed by UGC for appointment of Lecturers in College/Universities
1.	Before 1991	PG with 50% minimum marks
2.	19.09.1991	PG with 55% minimum marks with Pass NET/SLET
3.	1993	PG with 55% minimum marks with Pass NET/SLET Exemption for those who completed M.Phil before 31.12.1993 (or) submitted Ph.D. dissertation before 31.12.1993
4.	31.07.2002	PG with 55% marks with NET/SLET. Exemption for Ph.D. dissertation submitted before 31.12.2002
5.	14.06.2006	PG with 55% minimum marks with NET/SLET. Exemption for M.Phil for taking UG class and Ph.D. for taking PG class
6.	30.06.2010	PG with 55% minimum marks with NET/SLET Exemption only for Ph.D. holders.

Issue No.1:

Whether the petitioners are entitled to count the teaching experience from the date of initial appointment, notwithstanding the fact that the qualification defers in the subsequent period?

11. TRB issued a Notification inviting applications for the post of Assistant Professor from eligible candidates for the Government Arts and Science Colleges and Colleges of Education for the year 2018-2019. The total vacancies are 2331 including backlog vacancies and shortfall vacancies. The said Notification contains subject wise as well as community wise vacancies. They decided to fill up the post following the Rule of Reservation; vertical and horizontal reservations. Educational qualification for general candidate is A Pass in Post-Graduate Degree in the relevant subject with a minimum of 55% marks and a Pass in the NET/SLET/SET/SLST/CSIR/JRF as per UGC Norms in the relevant subject or a Pass in Post-Graduate Degree in the relevant

subject with a minimum of 55% marks and Ph.D degree in the relevant subject awarded as per UGC norms, a Ph.D degree that has been awarded in accordance with the UGC (minimum standards and procedure for award of M.Phil/Ph.D degree) Regulations, 2009 or 2016 and their amendments from time to time as the case may be exempted from NET/SLET/SET, provided that the candidates registered for Ph.D prior to July 11, 2019 shall be governed by the provisions of the then existing Regulations of the Institution awarding the degree and such Ph.D candidates shall be exempted from the requirement of NET/SLET/SET for recruitment. For appointment of Assistant Professor, the conditions are that Ph.D degree of the candidate has been awarded in a regular mode, Ph.D. thesis has been evaluated by at least two external examiners, an open Ph.D viva-voce of the candidate has been conducted, the candidate has published two research papers from his/her Ph.D work, out of which at least one is in a referred journal and the candidate has presented at least two papers based on sponsored/funded/supported by the UGC and the same have to be fulfilled.

12. Perusal of clause 13 of the Notification reveals that the scheme of selection for awarding marks to all the candidates is based on the experience certificates uploaded by the candidates along with their application forms as per criteria and after due verification by the certificate verification team and also the marks awarded during the time of interview as per G.O.Ms.No.412, Higher Education (F2) Department dated 07.12.2009 and G.O.Ms.No.32, Higher Education (F2) Department, dated 08.03.2013. They allotted 15 marks for teaching experience, 9 marks for qualification; i.e., for Ph.D candidates - 9 marks; for M.Phil with SLET/NET/SET candidates - 6 marks and for Post Graduate and SLET/NET/SET - 5 marks, 10 marks for interview and total mark is 34.

13. For awarding marks in teaching experience, there is separate clause viz., clause 15 of the Notification, which relates to the teaching experience certificate and countersigning authority. A perusal of the said clause reveals that the candidates as per the post, have to upload their experience certificates through online during registration itself. Teaching certificate should be in the prescribed formats I, II and III. Annexure A is the consolidation of all such formats. Format I is for Arts and Science Colleges, Medical Colleges, Engineering Colleges and B.Ed., Colleges. Format II is for Universities and Deemed Universities. Format III is for Foreign Universities. The experience certificates of the candidates, who worked in Government or Aided or Self-financing Arts and Science Colleges should be countersigned by the

respective Regional Joint Director of Collegiate Education, for Self-financing Engineering Colleges, it should be countersigned by the Director of Technical Education and in respect of Universities, concerned Registrar of the University. Experience certificate claimed while doing full-time courses or Full-time Ph.D will not be considered. Part-time Ph.D candidates will be awarded weightage marks. Yardstick for awarding marks for teaching experience is based on the judgment passed in W.P.No.18186 of 2013 dated 12.07.2013 and the order was implemented and the Government issued letter dated 31.07.2013.

14. The grievance of the petitioners is that the decision of this Court referred in the Notification is not related to awarding marks for teaching experience, it is only for appointment to the post of Assistant Professor in Colleges and Universities.

15. This Court perused the order of this Court dated 12.07.2013 made in W.P.No.18186 of 2013. Prayer in the writ petition is to quash the Notification No.4/13, dated 28.05.2013 issued by the Recruitment Board/2nd respondent therein and direct the 2nd respondent therein to consider the petitioner's work experience of the Assistant Professor for the purpose of awarding marks for experience as per the original Notification. This Court has elaborately discussed the above matter particularly in para-19, arrived a conclusion that if a teacher acquired the qualification in terms of UGC Regulations/Rules as prescribed by the Government/University, the same shall be the yardstick for determination of teaching experience. This Court compartmentalised the qualifications cited supra and issued directions to the TRB to clarify to the candidates by way of Notification in the newspapers that during the relevant period, the qualifications mentioned in the tabular column, at the relevant point of time can be considered for awarding weightage marks for teaching experience.

16. The above said decision makes it clear and thereby the respondents have in compliance with the above said decision issued a letter No.12258A/F2/2013-3, dated 31.07.2013 regarding clarification on the implementation of the said order and the same has been clarified. Respondents stated that the said order can be complied with, since it is in conformity with the guidelines laid down by UGC for recruitment of Assistant Professor post. A person should obtain a minimum qualification at the relevant point of time prescribed by UGC as mentioned above. The teaching experience shall appropriately be calculated to the above prescribed qualification. Further in the letter dated 31.07.2013 to ensure that the candidates possess

qualifications prescribed by UGC at the relevant period as indicated in para-20 of the order dated 12.07.2013 in W.P.No.18186 of 2013 for awarding marks for teaching experience. According to the respondents, order of this Court dated 12.07.2013 is clarified and complied. However, as rightly pointed out by the learned Advocate General, till date, neither the decision of this Court nor the consequential letter of the Government was challenged before any other forum. Without challenging the said decision and the consequential letter, canvassing before this Court by the petitioners is unsustainable one and the claim of the petitioners that the decision of this Court only relates to appointment not for teaching experience is unacceptable one. Accordingly, issue No.1 is answered against the petitioners.

Issue No.2:

The next issue involved in the present case is whether the scheme of selection for awarding weightage marks for teaching experience, qualification and interview is valid or not?

17.This Court perused the Annexure to the Notification contains Format-I/II/III-A prescribing qualification for awarding weightage marks for teaching experience with reference to the relevant year. It is given in consolidated format. There are 29 columns and cumulative reading of the Format, Division Bench judgment of this Court, qualifications prescribed in the Notification and clause 15 of the Notification, which relates to the teaching experience certificate and countersigning authority, make it clear that a person who possess Post Graduate with 55 marks with NET/SLET/CISR after 19.09.1991 is eligible to participate in the selection process. Each compartment will give marks with experience gained by experienced teachers. This Court did not find any irregularity in the Format annexed along with the Notification. That format is in consonance with the qualifications prescribed in the Notification as well as order of this Court. Yardstick for awarding marks for teaching experience is based on the judgment passed in W.P.No.18186 of 2013 dated 12.07.2013 and the said order was implemented by the Government. Further, in respect of awarding weightage marks for teaching experience, qualification and interview, the yardsticks were upheld by the Hon'ble Apex Court in catena of decisions. In view of the above decisions, Issue No.2 is answered against the petitioners.

Issue No.3:

Whether the scheme of selection has to be conducted as per clause 13 of the Notification for awarding weightage marks or selection has to be conducted only through competitive written

examination?

18. Admittedly, the petitioners and other persons, who intended to participate in the selection process in the Notification, are already working as Lecturers in different colleges right from 1991 onwards. They gain much experience in teaching field with requisite qualifications as per UGC Regulations and their appointments are in various colleges. According to the respondents, conducting another written test for the above posts will put extra burden on the Lecturers. The very same issue was discussed by this Court as well as the Hon'ble Apex Court in catena of decisions and therefore, it is relevant to refer the following decisions relied on by the learned Advocate General appearing for the respondents/Government:

(i) (2000) 7 SCC 719 (Kiran Gupta and others vs. State of U.P. and others);

"21. In Janki Prasad Parimoo Vs. State of Jammu and Kashmir and Ors [1973 (1) SCC 420], the challenge was against selection for the posts of Headmasters made by the Selection Committee on the basis of interview. A Constitution Bench of this Court while approving the method of selection by interview, held that when appointment to higher posts were made it might be perfectly legitimate to test the candidate at a properly conducted interview. It was observed that the efficiency of a teacher and his qualification to be appointed as a Headmaster depended upon several considerations - his character, his teaching experience, ability to manage his class, his popularity with the students and the high percentage of successful students he was able to produce; and that all those matters must be necessarily taken into consideration before making a selection.

22. It is difficult to accept the omnibus contention that selection on the basis of viva voce only is arbitrary and illegal and that since allocation of 15% marks for interview was held to be arbitrary by this Court, selections solely based on interview is a fortiori illegal. It will be useful to bear in mind that there is no rule of thumb with regard to allotment of percentage of marks for interview. It depends on several factors and the question of permissible percentage of marks for an interview test has to be decided on the facts of each case. However, the decisions of

this Court with regard to reasonableness of percentage of marks allotted for interview in cases of admission to educational institutions/schools will not afford a proper guidance in determining the permissible percentage of marks for interview in cases of selection/appointment to the posts in various services. Even in this class, there may be two categories: (i) when the selection is by both a written test and viva voce; and (ii) by viva voce alone. The courts have frowned upon prescribing higher percentage of marks for interview when selection is on the basis of both oral interview and a written test. But, where oral interview alone has been the criteria for selection/appointment/promotion to any posts in senior positions the question of higher percentage of marks for interview does not arise. Therefore, we think it an exercise in futility to discuss these cases -- Minor A. Peeriakaruppan etc. Vs. State of Tamil Nadu and Ors. [1971 (1) SCC 38] and Ajay Hasia and Ors. Vs. Khalid Mujib Sehravardi and Ors. [1981 (1) SCC 722] -- relied upon by Mr. Goswami, which deal with admission to educational institutions/schools and also cases where prescribed method of recruitment was written test followed by interview - Ashok Kumar Yadav & Ors. vs. State of Haryana & Ors. [1985 (4) SCC 417]; D.V. Bakshi & Ors. vs. Union of India & Ors. [1993 (3) SCC 663; Krishan Yadav & Anr. Vs. State of Haryana & Ors. [1994 (4) SCC 165].

23. However, it will be apt to refer to the decision of a three-Judge Bench of this Court in Lila Dhar Vs. State of Rajasthan and Ors. [1981 (4) SCC 159]. There, the impugned selection for the posts of District Munsifs under Rajasthan Judicial Service Rules was made by the Rajasthan Public Service Commission. The ratio of marks allocated for written test and interview was 75:25. Speaking for the Court, Justice O. Chinnappa Reddy pointed out:

"In the case of admission to a college, for instance, where the candidate's personality is yet to develop and it is too early to identify the personal qualities for which greater importance

may have to be attached in later life, greater weight has per force to be given to performance in the written examination. The importance to be attached to the interview-test must be minimal. Therefore, the ratio of the decisions in Minor A. Peeriakaruppan etc. Vs. State of Tamil Nadu and Ors. [1971 (1) SCC 38] and Ajay Hasia and Ors. Vs. Khalid Mujib Sehravardi and Ors. [1981 (1) SCC 722], in this regard, cannot be applied in case of services to which recruitment has necessarily to be made from persons of mature personality. In such services interview test may be the only way, subject to basic and essential academic and professional requirements being satisfied."

That case has been consistently followed in various judgments of this Court. We refer to a few of them here.

24. In Dr. Keshav Ram Pal vs. U.P. Higher Education Services Commission, Allahabad & Ors. [1986 (1) SCC 671], referring to the view taken by this Court in Periakaruppan vs. State of T.N. (supra) and Ajay Hasia vs. Khalid Mujib Sehravardi (supra) that the importance to be attached to the interview test must be minimal, this Court commented that in the case of services to which recruitment had necessarily to be made from persons of mature personality, interview test might be the only way, subject to basic and essential academic and professional requirements being satisfied and that subjecting such persons to a written examination might yield unfruitful and negative results, apart from it being an act of cruelty to those persons.

25. In Anzar Ahmad etc. Vs. State of Bihar and Ors. Etc. [1994 (1) SCC 150], for appointment to the posts of Unani Medical Officer the Government prescribed that the Public Service Commission shall select the candidates on the basis of interview. The Commission allocated 50% marks for academic qualification and 50% for interview. This Court, after referring to the aforementioned cases and relying upon Lila Dhar's case, upheld the method of selection by interview alone. That decision was followed in A.P. State Financial Corporation Vs. C.M. Ashok Raju and Ors. [1994 (5)

SCC 359]. In that case also selection of candidates by interview without a written test was upheld by this Court. The posts of Managers in the A.P. Financial Corporation were to be filled by interview without a written test. The Corporation approved the promotion criteria by viva voce without a written test and allocated marks under various heads; among them for interview 25% and for length of service 15% marks were prescribed. A Division Bench of the High Court while upholding the allocation of marks under various heads, reduced the percentage of marks for interview from 25% to 15% and increased percentage of marks for length of service from 15% to 25%. On appeal, this Court held that the High Court fell into patent error in reaching the conclusion that 25% marks for interview were, in the facts of that case, excessive. It was observed that there was no dispute that no written test was prescribed for promotion to the post of Manager and above and the selection/promotion was only by viva voce test, so no limit could be imposed for prescribing the marks for interview.

26. In *Siya Ram Vs. Union of India and Ors.* [1998 (2) SCC 566] one of the grounds of attack was that the Rules regarding selection for the post of Chief Personnel Inspector in Railways, permitted only oral test in the form of viva voce and no written examination was held. It was contended that the result of a selection merely on the basis of viva voce could not be reasonably fair and was liable to lead to arbitrariness. There, out of 100 marks, 50 were allotted for professional ability without prescribing any norms. While rejecting the contention, this Court, following the *Lila Dhar's* case, held that at times for certain posts only interview was considered to be the best method of selection.

(ii) Judgment dated 11.09.2017 made in W.A.No.1085 of 2017 (*B. Deepan Kumar and others vs. State of Tamil Nadu*);

"4. Contention of the learned counsel for the appellants that selection is solely based on interview, is apparently not correct for the reason that out of 34 marks, Government have awarded, 15 marks for teaching experience, as

stated supra, and for educational qualifications, awarded different marks, as stated supra.

5. Decision in Ajay Hasia's case is made applicable to the case on hand. Criteria stated supra is to all the candidates who have applied for the post of Assistant Professors in Tamil Nadu Collegiate Educational Service for appointment in Government Arts and Science Colleges. Appellants/writ petitioners, have no right to insist that selection should be made through competitive examination, in consonance with Article 14 and 16 of the Constitution of India. Prescription of educational qualifications and method of selection is purely the prerogative of the appointing authority. In the case on hand, all are treated equally and their inter se merit is decided on the basis of their teaching experience, educational qualifications and interview. Process of selection is not arbitrary.

6. As rightly observed by the writ Court, likelihood of unfairness in the matter of selection, cannot be a ground for a candidate, to suggest a different mode of selection, than the one prescribed by the Teachers Recruitment Board, the authority constituted for recruitment. There is no manifest error in the order, warranting interference. Writ appeal is dismissed. No costs. Consequently, the connected Writ Miscellaneous Petition is closed."

(iii) (1981) 1 SCC 722 (Ajay Hasia and others vs. Khalid Mujib Sehravardi and others);

18. The second ground of challenge questioned the validity of viva voce examination as a permissible test for selection of candidates for admission to a college. The contention of the petitioners under this ground of challenge was that viva voce examination does not afford a proper criterion for assessment of the suitability of the candidates for admission and it is a highly subjective and impressionistic test where the result is likely to be influenced by many uncertain and imponderable factors such as predilections and prejudices of the interviewers, his attitudes and approaches, his pre-conceived

notions and idiosyncrasies and it is also capable of abuse because it leaves scope for discrimination, manipulation and nepotism which can remain undetected under the cover of an interview and moreover it is not possible to assess the capacity and calibre of a candidate in the

course of an interview lasting only for a few minutes and, therefore, selections made on the basis of oral interview must be regarded as arbitrary and hence violative of Art. 14. Now this criticism cannot be said to be wholly unfounded and it reflects a point of view which has certainly some validity. We may quote the following passage from the book on "Public Administration in Theory and Practice" by M. P. Sharma which voices a far and balanced criticism of the oral interview method :

"The oral test of the interview has been much criticised on the ground of its subjectivity and uncertainty. Different interviews have their own notions of good personality. For some, it consists more in attractive physical appearance and dress rather than anything else, and with them the breezy and shiny type of candidate scores highly while the rough uncut diamonds may go unappreciated. The atmosphere of the interview is artificial and prevents some candidates from appearing at their best. Its duration is short, the few questions of the hit-or-miss type, which are put, may fail to reveal the real worth of the candidate. It has been said that God takes a whole life time to judge a man's worth while interviewers have to do it in a quarter of an hour. Even at it's best, the common sort of interview reveals but the superficial aspects of the candidate's personality like appearance, speaking power, and general address. Deeper traits of leadership, tact, forcefulness, etc. go largely undetected. The interview is often in the nature of desultory conversation. Marking differs greatly from examiner to examiner. An analysis of the interview results show that the marks awarded to candidates who competed more than once for the same service vary surprisingly. All this shows that there is a great element of chance in the interview test. This becomes a serious matter when the marks

assigned to oral test constitute a high proportion of the total marks in the competition.

Ol Glenn Stahl points out in his book on "Public Personnel Administration" that there are three disadvantages from which the oral test method suffers, namely, "(1) the difficulty of developing valid and reliable oral tests; (2) the difficulty of securing a reviewable record on an oral test; and (3) public suspicion of the oral test as a channel for the exertion of political influence" and we may add, other corrupt, nepotistic or extraneous considerations. The learned author then proceeds to add in a highly perceptive and critical passage :

"The oral examination has failed in the past in direct proportion to the extent of its misuse. It is a delicate instrument and, in inexperienced hands, a dangerous one. The first condition of its successful use is the full recognition of its limitations. One of the most prolific sources of error in the oral test has been the failure on the part of examiners to understand the nature of evidence and to discriminate between that which was relevant, material and reliable and that which was not. It also must be remembered that the best oral interview provides opportunity for analysis of only a very small part of a person's total behaviour. Generalizations from a single interview regarding an individual's total personality pattern have been proved repeatedly to be wrong."

But, despite all this criticism, the oral interview method continues to be very much in vogue as a supplementary test for assessing the suitability of candidates wherever test of personal traits is considered essential. Its relevance as a test for determining suitability based on personal characteristics has been recognised in a number of decisions of this Court which are binding upon us. In the first case on the point which came before this Court, namely, R. Chitra Lekha and Others v. State of Mysore and Others AIR (1964) SC 1823, this Court pointed out :

"In the field of education there are divergent views as regards the mode of testing the capacity and calibre of students in the matter of admissions to colleges. Orthodox educationists stand by the marks obtained by a student in the annual examination. The modern trend of opinion

insists upon other additional tests, such as interview, performance in extracurricular activities, personality test, psychiatric tests etc. Obviously we are not in a position to judge which method is preferable or which test is the correct one.... The scheme of selection, however, perfect it may be on paper, may be abused in practice. That it is capable of abuse is not a ground for quashing it. So long as the order lays down relevant objective criteria and entrusts the business of selection to qualified persons, this Court cannot obviously have any say in the matter. and on this view refused to hold the oral interview test as irrelevant or arbitrary. It was also pointed out by this Court in A. Peeriakaruppan v. State of Tamil Nadu & Ors (1971) 1 SCC 38 : "In most cases, the first impression need not necessarily be the past impression, but under the existing conditions, we are unable to accede to the contentions of the petitioners that the system of interview as in vogue in this country is so defective as to make it useless." It is therefore not possible to accept the contentions of the petitioners that the oral interview test is so defective that selecting candidates for admission on the basis of oral interview in addition to written test must be regarded as arbitrary. The oral interview test is undoubtedly not a very satisfactory test for assessing and evaluating the capacity and calibre of candidates, but in the absence of any better test for measuring personal characteristics and traits, the oral interview test must, at the present stage, be regarded as not irrational or irrelevant though it is subjective and based on first impression, its result is influenced by many uncertain factors and it is capable of abuse. We would, however, like to point out that in the matter of admission to college or even in the matter of public employment, the oral interview test as presently held should not be relied upon as an exclusive test, but it may be resorted to only as an additional or supplementary test and, moreover, great care must be taken to see that persons who are appointed to conduct the oral interview test are men of high integrity, calibre and qualification.

19. So far as the third ground of challenge is concerned, we do not think it can be dismissed as unsubstantial. The argument of the petitioners under this head of challenge was that even if oral interview may be regarded in principle as a valid test for selection of candidates for admission to a college, it was in the present case arbitrary and unreasonable since the marks allocated for the oral interview were very much on the higher side as compared with the marks allocated for the written test. The marks allocated for the oral interview were 50 as against 100 allocated for the written test, so that the marks allocated for the oral interview came to 33 1/3% of the total number of marks taken into account for the purpose of making the selection. This, contended the petitioners, was beyond all reasonable proportion and rendered the selection of the candidates arbitrary and violative of the equality clause of the Constitution. Now there can be no doubt that, having regard to the drawbacks and deficiencies in the oral interview test and the conditions prevailing in the country, particularly when there is deterioration in moral values and corruption and nepotism are very much on the increase, allocation of a high percentage of marks for the oral interview as compared to the marks allocated for the written test, cannot be accepted by the Court as free from the vice of arbitrariness. It may be pointed out that even in Peeriakaruppan's case (supra), where 75 marks out of a total of 275 marks were allocated for the oral interview, this Court observed that the marks allocated for interview were on the high side. This Court also observed in Nishi Maghu case (supra): "Reserving 50 marks for interview out of a total of 150... does seem excessive, especially when the time spent was not more than 4 minutes on each candidate". There can be no doubt that allocating 33 1/3 of the total marks for oral interview is plainly arbitrary and unreasonable. It is significant to note that even for selection of candidates for the Indian Administrative Service, the Indian Foreign Service and the Indian Police Service, where the personality of the candidate and his personal characteristics and traits are extremely relevant for the purpose of selection, the marks allocated for oral interview are 250 as

against 1800 marks for the written examination, constituting only 12.2% of the total marks taken into consideration for the purpose of making the selection. We must, therefore, regard the allocation of as high a percentage as 33 1/3 of the total marks for the oral interview as infecting the admission procedure with the vice of arbitrariness and selection of candidates made on the basis of such admission procedure cannot be sustained. But we do not think we would be justified in the exercise of our discretion in setting aside the selections made for the academic year 1979-80 after the lapse of a period of about 18 months, since to do so would be to cause immense hardship to those students in whose case the validity of the selection cannot otherwise be questioned and who have nearly completed three semesters and, moreover, even if the petitioners are ultimately found to be deserving of selection on the application of the proper test, it would not be possible to restore them to the position as if they were admitted for the academic year 1979-80, which has run out long since. It is true there is an allegation of mala fides against the Committee which interviewed the candidates and we may concede that if this allegation were established, we might have been inclined to interfere with the selections even after the lapse of a period of 18 months, because the writ petitions were filed as early as October-November, 1979 and merely because the Court could not take-up the hearing of the writ petitions for such a long time should be no ground for denying relief to the petitioners, if they are otherwise so entitled. But we do not think that on the material placed before us we can sustain the allegation of mala fides against the Committee. It is true, and this is a rather disturbing feature of the present cases, that a large number of successful candidates succeeded in obtaining admission to the college by virtue of very high marks obtained by them at the viva voce examination tilted the balance in their favour, though the marks secured by them at the qualifying examination were much less than those obtained by the petitioners and even in the written test, they had fared much worse than the petitioners. It is clear from the chart submitted to us on behalf of the petitioners

that the marks awarded at the interview are by and large in inverse proportion to the marks obtained by the candidates at the qualifying examination and are also, in a large number of cases, not commensurate with the marks obtained in the written test. The chart does create a strong suspicion in our mind that the marks awarded at the viva voce examination might have been manipulated with a view to favouring the candidates who ultimately came to be selected, but suspicion cannot take the place of proof and we cannot hold the plea of mala fides to be established. We need much more cogent material before we can hold that the Committee deliberately manipulated the marks at the viva voce examination with a view to favouring certain candidates as against the petitioners. We cannot, however, fail to mention that this is a matter which required to be looked into very carefully and not only the State Government, but also the Central Government which is equally responsible for the proper running of the college, must take care to see that proper persons are appointed on the interviewing committees and there is no executive interference with their decision-making process. We may also caution the authorities that though, in the present case, for reasons which we have already given, we are not interfering with the selection for the academic year 1979- 80, the selections made for the subsequent academic years would run the risk of invalidation if such a high percentage of marks is allocated for the oral interview. We are of the view that, under the existing circumstances, allocation of more than 15% of the total marks for the oral interview would be arbitrary and unreasonable and would be liable to be struck down as constitutionally invalid.

20. The petitioners, arguing under the last ground of challenge, urged that the oral interview as conducted in the present case was a mere pretence or farce, as it did not last for more than 2 or 3 minutes per candidate on an average and the questions which were asked were formal questions relating to parentage and residence of the candidate and hardly any question was asked which had relevance to assessment of the suitability of the candidate with reference to any

of the four factors required to be considered by the Committee. When the time spent on each candidate was not more 2 or 3 minutes on an average, contended the petitioners, how could the suitability of the candidate be assessed on a consideration of the relevant factors by holding such an interview and how could the Committee possibly judge the merit of the candidate with reference to these factors when no questions bearing on these factors were asked to the candidate. Now there can be no doubt that if the interview did not take more than 2 or 3 minutes on an average and the questions asked had no bearing on the factors required to be taken into account, the oral interview test would be vitiated, because it would be impossible in such an interview to assess the merit of a candidate with reference to these factors. This allegation of the petitioners has been denied in the affidavit in reply filed by H. L. Chowdhury on behalf of the college and it has been stated that each candidate was interviewed for 6 to 8 minutes and "only the relevant questions on the aforesaid subjects were asked". If this statement of H. L. Chowdhury is correct, we cannot find much fault with the oral interview test held by the Committee. But we do not think we can act on this statement made by H. L. Chowdhury, because there is nothing to show that he was present at the interviews and none of the three Committee members has come forward to make an affidavit denying the allegation of the petitioners and stating that each candidate was interviewed for 6 to 8 minutes and only relevant questions were asked. We must therefore, proceed on the basis that the interview of each candidate did not last for more than 2 or 3 minutes on an average and hardly any questions were asked having bearing on the relevant factors. If that be so, the oral interview test must be held to be vitiated and the selection made on the basis of such test must be held to be arbitrary. We are, however, not inclined for reasons already given, to set aside the selection made for the academic year 1979-80, though we may caution the State Government and the Society that for the future academic years, selections may be made on the basis of observation made by us in this judgment lest they might run the risk of being struck down.

We may point out that, in our opinion, if the marks allocated for the oral interview do not exceed 15% of the total marks and the candidates are properly interviewed and relevant questions are asked with a view to assessing their suitability with reference to the factors required to be taken into consideration, the oral interview test would satisfy the criterion of reasonableness and non-arbitrariness. We think that it would also be desirable if the interview of the candidates is tape-recorded, for in that event there will be contemporaneous evidence to show what were the questions asked to the candidates by the interviewing committee and what were the answers given and that will eliminate a lot of unnecessary controversy besides acting as a check on the possible arbitrariness of the interviewing committee.

21. We may point out that the State Government, the Society and the College have agreed before us that the best fifty students, out of those who applied for admission for the academic year 1979-80 and who have failed to secure admission so far, will be granted admission for the academic year 1981-82 and the seats allocated to them will be in addition to the normal intake of students in the College. We order accordingly."

(iv) (2015) 6 SCC 363 (Kalyani Mathivanan vs. K.V.Jeyaraj and others);

"38. The question that now arises is whether any of the provisions of the State Legislation (University Act, 1965) and statutes framed thereunder is in conflict with the Central Legislation i.e. UGC Act, 1956 including UGC Regulations, 2010.

39. We find that post of Vice-Chancellor under the University Act, 1965 is a post of an Officer. The UGC Act 1956 is silent about this aspect. The UGC Regulations, 2000 are also silent in regard to post of Vice-Chancellor. Provisions regarding Vice-Chancellor have been made for the first time under UGC Regulations, 2010.

We have noticed and held that UGC Regulations, 2010 is not applicable to the Universities, Colleges and other higher educational institutions coming under the purview of the State Legislature

unless State Government wish to adopt and implement the Scheme subject to the terms and conditions therein. In this connection, one may refer paragraph 8(p)(v) of Appendix-I dated 31st December, 2008 and Regulation 7.4.0 of UGC Regulations, 2010."

(v) (2017) 1 SCC 322 (V.Lavanya and others vs. State of Tamil Nadu and others);

"40. The appellants have maintained that while prescribing the marks for performance in Higher Secondary Examination, the respondents have failed to take into account different Education Boards (CBSE, ICSE, State Boards etc.) conducting Higher Secondary Examination and difference in their marks awarding patterns. As also, the appellants have alleged that respondents failed to consider different streams of education while formulating the grading pattern. It is submitted that unless and until the respondents take note of difference in marking scheme of Education boards, as also the marking scheme of different streams such as Arts, Science etc. a valid grading system cannot be formulated. Equivalence of academic qualifications is a matter for experts and courts normally do not interfere with the decisions of the Government based on the recommendations of the experts (vide University of Mysore v. CD Govinda Rao (1964) 4 SCR 575 and Mohd. Sujat Ali v. Union of India (1975) 3 SCC 76). We hold that it is the prerogative of State-Authorities to formulate a system whereby weightage of marks is decided with reference to actual marks secured by each candidate. In the present case, as no arbitrariness is proved on the part of the respondents in formulating the grading system we cannot interfere with the same. We cannot be expected to go into every minute technicalities of the decision taken by the experts and perform the job of the respondent State. Moreover, the High Court has also noted that submission of the learned Advocate General that almost all the appellants have completed their High Secondary examination from the State Boards.

41. The contention that different Boards of Examination have different standards and the examiners who evaluate the scripts are in some places more liberal than others and that the

candidates who acquired qualifications decades back had to suffer strict evaluation as compared to the candidates who have qualified in the recent past facing liberal evaluation criteria, are all hypothetical arguments without any pleading and supporting material disclosed in the Writ Petitions. As noted earlier, weightage of marks for academic performance and TET fixed vide G.O. (Ms.) No.252 dated 05.10.2012 continues to be the same even after issuing G.O.(Ms.)No.71 dated 30.05.2014. Having taken up the examination as per G.O.(Ms.) No.252, the appellants cannot challenge the award of weightage for the distribution of marks for academic performance with reference to actual marks secured by each candidate. The appellants are not justified in challenging every rational decision taken by the respondents to make the selection process more fair and reasonable merely because the outcome does not favour the limited individual interests of the appellants."

19. This Court has also perused the scheme of selection in particular clause 13 of the Notification. In clause 13, TRB awarded 15 marks for teaching experience, 9 marks for qualification and 10 marks for interview. The scheme of selection as per the Notification makes it clear that well experienced teacher or a person who possessed higher qualification will get more marks. A qualified person based on higher qualification can enter into next selection process. No person can enter for interview without any adequate qualification. Under such circumstances, I do not find any arbitrariness in the scheme of selection.

20. The very same selection was challenged before this Court in W.P.No.15913 of 2017. The said writ petition came to be dismissed on 11.07.2017. Against the order of dismissal, W.A.No.1085 of 2017 was preferred by the petitioners therein. The Division Bench of this Court by judgment dated 11.09.2017 (wherein I was also one of the Member) clearly held that decision in Ajay Hasia's case is made applicable to the case on hand. It is further held that criteria stated supra is to all the candidates who have applied for the post of Assistant Professors in Tamil Nadu Collegiate Educational Service for appointment in Government Arts and Science Colleges. Appellants/writ petitioners have no right to insist that selection should be made through competitive examination, in consonance with Article 14 and 16 of the Constitution of India. Prescription of educational qualifications and method of selection is purely the prerogative of the appointing authority.

In the case on hand, all the candidates are treated equally and their inter se merit is decided on the basis of their teaching experience, educational qualifications and interview. Process of selection is not arbitrary. As rightly observed by the writ Court, likelihood of unfairness in the matter of selection, cannot be a ground for a candidate, to suggest a different mode of selection, than the one prescribed by the TRB, the authority constituted for recruitment. There is no manifest error in the order, warranting interference. Thus, the Division Bench of this Court upheld the scheme of selection.

21. Considering the above facts and circumstances of the case along with the decisions relied on by the learned Advocate General, it makes it clear that once the intention of the Government/Competent Authority/Expert is to award marks for the persons who have secured either higher qualification or for considering the teaching experience and hence, the same cannot be challenged as being violative of Article 14 and Article 16 of the Constitution of India. On the contrary, such a classification is irrational and having no nexus to the object sought to be achieved. Ultimately, in a selection process, a candidate, so that, the students, who are undergoing the courses in higher educational institutions, will have the benefit of either the long teaching experience or the higher educational qualification. In the present case, the petitioners are entitled to participate in the selection process and they have enriched experience in the teaching profession. A person with higher qualification is entitled to participate in the selection. Only because the petitioners are qualified to apply for the said post, they cannot seek to challenge the conditions imposed in the Notification. Further, yardstick prescribed in the Notification is correct, process of selection is not arbitrary and in violation of Article 14 and 16 of the Constitution of India. This Court is well aware that normally, the Constitutional Courts leave the decision of the academic matters to the Experts, who are more familiar with the problems they face than the Courts generally can be. Once Expert has arrived at a conclusion and fixed yardstick for selection process by awarding weightage marks for qualification and teaching experience, without any material, the same cannot be interfered. The writ petitioners have no right to insist that selection should be made through competitive examination in consonance with Article 14 and 16 of the Constitution of India. Prescription of educational qualifications and method of selection is purely the prerogative of the appointing authority. In the case on hand, all the candidates are treated equally and their inter se merit is decided on the basis of their teaching experience, educational qualifications and interview. Accordingly, issue No.3 is answered against the petitioners.

22.Thus, for the forgoing reasons, I do not find any merit in the writ petitions and accordingly, the writ petitions stand dismissed. No order as to costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

kj
To

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+4 Ccs to M/s.T.Gandhi, Advocate sr 97195, 97193, 97194, 17192.

W.P.Nos.29313, 29709, 31303, 31725,
31803, 31889, 32007, 32136, 32218 of 2019

RP(CO)
SP(05/12/2019)

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