

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 05-12-2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.32799 OF 2019

R.Sutha

... Petitioner

-vs-

- 1.State of Tamil Nadu,
rep.by its Principal Secretary to Government,
Higher Education Department,
Fort.St.George, Secretariat,
Chennai-600 009.
- 2.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
- 3.The Chairman,
Teacher Recruitment Board,
4th Floor, E.V.K.Sampath Maligai,
DPI Campus, College Road,
Chennai-600 006.
- 4.Tamil Nadu Teacher Education University,
Lady Wellington College Campus,
Kamarajar Salai,
Chennai-600 005.
- 5.National Council for Teacher Education (NCTE),
rep.by its Chairperson,
Hans Bhawan, Wing-II,
Bahadur Shah Zafar Marg,
New Delhi-110 002.

... Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Declaration, declaring G.O.Ms.No.3, Higher Education (K2) Department, dated 05.01.2016, holding that the B.Ed. Degree course offered by University of Kerala is not equivalent to B.Ed. Degree of Tamil Nadu Teacher Education University, the fourth respondent herein, is applicable only to two years B.Ed. Degree course offered from the academic year 2015-16 onwards and not to one year

B.Ed.Degree course offered by the University of Kerala and consequently consider the petitioner for selection and appointment to the post of P.G.Assistant (Zoology) in pursuance to the Notification No.10/2019, dated 12.06.2019, issued by the third respondent Teachers Recruitment Board (TRB), based on merits.

For Petitioner : Mr.G.Sankaran
For Respondents : Mrs.V.Annalakshmi,
Government Advocate.

ORDER

This Writ Petition has been filed seeking for a direction to the respondents to consider the petitioner for selection and appointment to the post of P.G.Assistant (Zoology), pursuant to the Notification, dated 12.06.2019, issued by the third respondent - Teachers Recruitment Board.

2. Case of the petitioner is that she completed B.Sc. (Zoology) Degree in the year 1996 and, thereafter, M.Sc. (Zoology) in the year 1999. She completed B.Ed. Degree, which was a one year course from a college affiliated to Kerala University in the year 2010. She claims that she is eligible to be considered for selection and appointment to the post of P.G.Assistant in Zoology, as she possesses requisite qualifications. Since she is not considered for selection and appointment, the present Writ Petition has been filed before this Court.

3. Mr.G.Sankaran, learned counsel for the petitioner, has submitted that the petitioner possesses all requisite qualifications to be considered for appointment to the post of P.G.Assistant (Zoology) and, therefore, the third respondent ought to have entertained the application submitted by the petitioner and considered her for appointment. He further submitted that the only issue that has been put against the petitioner is that the Equivalence Committee has recommended that the B.Ed. Degree obtained from University of Kerala as not equivalent to the B.Ed.Degree of Tamil Nadu Teachers Education University and the same has been confirmed by the Department of Higher Education in G.O.Ms.No.3, Higher Education (K2) Department, dated 05.01.2016. According to the learned counsel, the said G.O.Ms.No.3, dated 05.01.2016, can only have prospective effect and it cannot take away the degree that was obtained much prior to the passing of the said G.O. In support of his contention, the learned counsel has placed reliance upon an earlier Government Order in G.O.Ms.No.483, dated 28.03.1988, wherein the Education Department has clearly recognised the

B.Ed.Degree obtained from Kerala University to be equivalent to that of Madras University.

4. Learned counsel for the petitioner, in order to fortify his argument, also placed reliance upon an order of this Court in W.P.No.28755 of 2017, dated 30.11.2017. In that case, the issue that was involved was, obtaining a B.Ed.Degree from Vinayaka Missions University, which was earlier considered to be equivalent and later found to be not equivalent by virtue of the very same G.O. viz., G.O.Ms.No.3, Higher Education (K2) Department, dated 05.01.2016, can be given effect retrospectively. The learned counsel has submitted that this Court, in the said case, has categorically held that G.O.Ms.No.3, dated 05.01.2016, will have only prospective effect from the academic year 2015-2016. The relevant portions of the said order are brought to the notice of this Court and the said portions are extracted hereunder :

"2. The petitioner joined Vinayaka Missions University's Annapoorna College of Education for B.Ed course, which is a one year course between 2006-2007 and she had successfully completed the course. However, the Government issued G.O.Ms.No.3, Higher Education (K2) Department, dated 05.01.2016, stating that B.Ed degree awarded by Vinayaka Missions University and three other Universities are not equivalent to B.Ed Degree of Tamil Nadu Teachers Education University. The petitioner who had obtained the degree before the date of issuance of G.O.Ms.No.3, Higher Education (K2) Department would contend that the said G.O., is not applicable to the candidates who had joined and passed the course before the date of issuance of the said Government Order. The G.O. could only be prospective and not retrospective. The necessity to approach this Court at this juncture is that the Teachers Recruitment Board had notified for receiving applications from eligible candidates for the post of PG Assistants in Government Higher Secondary Schools for the year 2016-17. However, in view of G.O.Ms.No.3, Higher Education (K2) Department, dated 05.01.2016, the petitioner apprehend that she will not be considered for appointment.

11. One more interesting point is that Tamil Nadu Teachers Education University itself has been established only in the year 2008, whereas Vinayaka Missions University got approval from NCTE in the year 2007 itself and they have been admitting students from the year 2007 onwards. Subsequent regulation or G.O., cannot disqualify validly obtained degrees granted by an NCTE approved

institution. Moreover, as rightly pointed out by the learned Senior counsel, the Hon'ble Supreme Court in Suresh Pal and others Vs. State of Haryana and others reported in (1987) 2 Supreme Court Cases 445, has held that based on the subsequent order, the recognition of the institution would not affect the students, who have been admitted in the college, when the recognition was in force. Similarly, the petitioner had obtained valid degrees before G.O.Ms.No.3, Higher Education (K2) Department, dated 05.01.2016, and the new NCTE regulation came into force. In view of the above, this Court holds that G.O.Ms.No.3, Higher Education (K2) Department dated 05.01.2016, which declares that B.Ed degree awarded by Vinayaka Mission University as not equivalent to B.Ed conferred by Tamil Nadu Teachers Education University would be applicable only from the year 2015-2016 and not before that, especially in respect of the petitioner.

13. Since this Court holds that G.O.Ms.No.3, Higher Education (K2) Department dated 05.01.2016 is not applicable to the degrees obtained from Vinayaka Missions University and the petitioner is said to have obtained valid degrees, she is qualified to be appointed. In view of the above reasons, the petitioner is entitled to be appointed, whenever the other selected students are appointed, as the petitioner possess valid degrees and she has also qualified in the Teachers Eligibility Test and her name find place in the select list of candidates."

Learned counsel, therefore, submitted that the petitioner possesses all requisite qualifications to be considered for selection and appointment to the post of P.G.Assistant (Zoology).

5. Per contra, Mrs.V.Annalakshmi, learned Government Advocate, appearing for the respondents, has submitted that Teachers Recruitment Board (TRB) went purely on the plain language that has been used in G.O.Ms.No.3, dated 05.01.2016, and that the said G.O. specifically states that the B.Ed.Degree that is obtained from Kerala University is not equivalent to the degree of Madras University. She further submitted that the year during which the degree was obtained is irrelevant and there is no indication even in the said G.O., that it will have only prospective operation. According to her, on the date when the application submitted by the petitioner was considered, the said G.O. was in force and, therefore, TRB had to necessarily comply with the G.O. and, as it was found that the B.Ed.Degree obtained by the petitioner could not be considered, the petitioner did not have the requisite qualifications to be considered for

appointment to the post of P.G.Assistant (Zoology). Accordingly, she submitted that there are absolutely no merits in this Writ Petition and it has to be dismissed.

6. This Court has carefully considered the submissions made by the learned counsel on either side and also the materials available on record.

7. The only issue that requires consideration in this case is, whether the B.Ed. Degree obtained by the petitioner in the year 2010 from a college recognised by Kerala University can be considered to be a valid degree and, if so, the petitioner is entitled to be considered for selection and appointment to the post of P.G.Assistant (Zoology) ?

8. In order to decide the above issue, it will be relevant to take note of the order passed by this Court in W.P.No.28755 of 2017, dated 30.11.2017. The relevant portions of the said order is already extracted supra. It is clear from the said order that this Court was dealing with a very similar issue and the only difference was, in that case, the B.Ed.Degree was obtained from Vinayaka Missions University and, in this case, the B.Ed.Degree has been obtained from Kerala University. While considering the said case, this Court came to a categorical conclusion that G.O.Ms.No.3, dated 05.01.2016, would be applicable only from the academic year 2015-2016 and not prior to that. This Court held therein that the B.Ed.Degree that was obtained by the petitioner was a valid degree and, accordingly, consequential directions were issued to the Department.

9. The facts of the present case are squarely covered by the above order. There is yet another reason why G.O.Ms.No.3, dated 05.01.2016, must be given only prospective operation. Earlier, G.O.Ms.No.483, Education Department, dated 28.03.1988, was passed by Education Department. By virtue of the said G.O., namely, G.O.Ms.No.483, B.Ed.Degree obtained from Kerala University was considered equivalent to that of Madras University. In this case, the petitioner had obtained the B.Ed. Degree in the year 2010 and, as on that date, G.O.Ms.No.483 was in force. Therefore, it cannot be said that the degree obtained by the petitioner became invalid in the year 2016 pursuant to passing of G.O.Ms.No.3, dated 05.01.2016. If the interpretation is to be given otherwise, it will have a serious impact on those persons, who had obtained a valid degree and which was considered equivalent by the previous G.O., and, subsequently, were informed that the degree obtained by them was not equivalent to the corresponding degree of the Madras University. Therefore, the stand taken by the learned Government Advocate in this regard is untenable and it is hereby rejected.

10. In the considered view of this Court, B.Ed.Degree obtained by the petitioner from Kerala University is valid for all purposes. Since it is seen that the petitioner also possesses all requisite qualifications to be considered for selection and promotion to the post of P.G.Assistant (Zoology), the third respondent is directed to entertain the application of the petitioner and consider the same strictly in accordance with the Rules, subject to the petitioner fulfilling all the other criteria.

11. Writ Petition is allowed accordingly. No costs. Consequently, the connected W.M.P.No.33225 of 2019 is closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

dixit

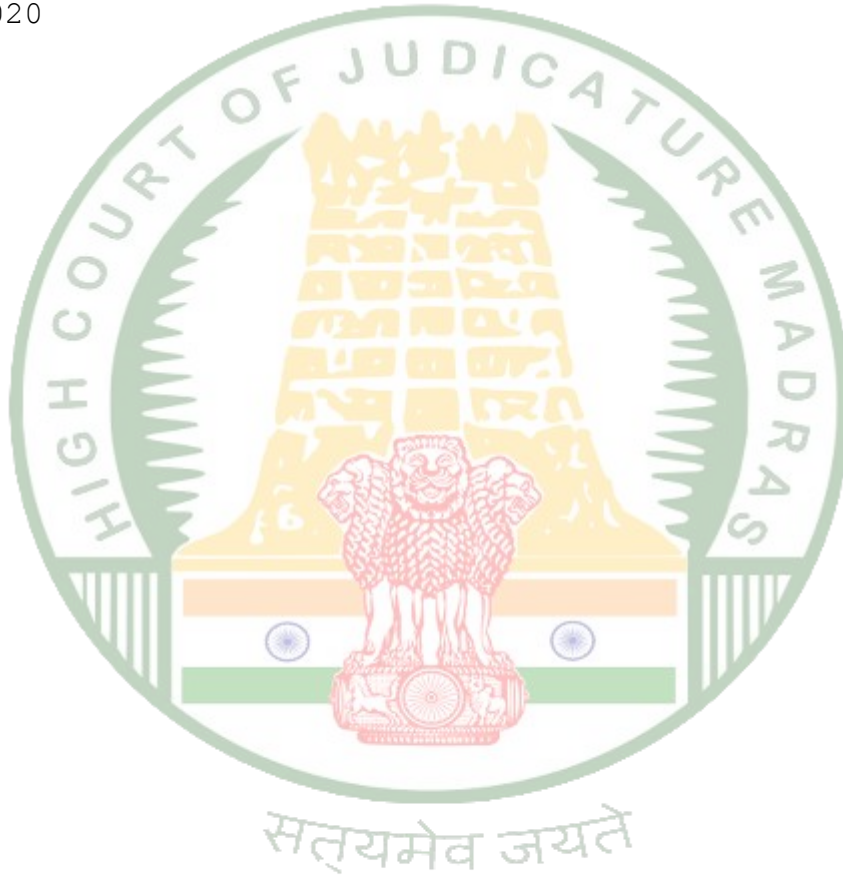
To

- 1.The Principal Secretary to Government
The State of Tamil Nadu
Higher Education Department,
Fort.St.George, Secretariat,
Chennai-600 006.
- 2.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
- 3.The Chairman,
Teacher Recruitment Board,
4th Floor, E.V.K.Sampath Maligai,
DPI Campus, College Road,
Chennai-600 006.
- 4.Tamil Nadu Teacher Education University,
Lady Wellington College Campus,
Kamarajar Salai,
Chennai-600 005.
- 5.The Chairperson
National Council for Teacher Education (NCTE),
Hans Bhawan, Wing-II,
Bahadur Shah Zafar Marg,
New Delhi-110 002.

+1 cc to Government Pleader sr102200
+1 cc to Mr.G.Sankaran Advocate sr102008

W.P.No.32799 OF 2019

aa13/01/2020



WEB COPY