



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.09.2019

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI**

W.A. (MD) No.585 of 2019

and

C.M.P. (MD) Nos.4800 and 4801 of 2019

M.Abbas Ali

... Appellant/Petitioner

-vs-

1.The Director of School Education,
College Road,
Chennai.

2.The Chief Educational Officer,
Ramanathapuram,
Ramanathapuram District.

3.The District Educational Officer,
Ramanathapuram,
Ramanathapuram District.

4.Syed Ammal Higher Secondary School,
represented by its Correspondent,
Velipattinam, Ramanathapuram,
Ramanathapuram District.

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 04.04.2019, made in W.P.(MD) No.10166 of 2015, on the file of this Court.

Prayer in WP(MD). 10166/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of dismissal from service dated 11.6.2015 on the file of the respondent no.4 and quash the them as illegal and consequently to direct the respondents to reinstate the petitioner



in the post of Physical Education Teacher (P.ET) with all consequential benefits.

WEB COPY

For Appellant : Mr.Aswin Rajasimman
For M/s.T.Lajapathi Roy
For Respondents 1 to 3 : Mr.A.K.Baskarapandian
Special Government Pleader

J U D G M E N T

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

Heard Mr.Aswin Rajasimman, learned counsel appearing for the appellants and Mr.A.K.Baskara Pandian, learned Special Government Pleader for the respondent 1 to 3.

2.The Writ Appeal has been filed challenging the order dated 04.04.2019, passed in W.P.(MD) No.10166 of 2015, which was filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order of dismissal from service dated 11.06.2015 on the file of the fourth respondent and to direct the respondents to reinstate the petitioner in the post of Physical Education Teacher (P.ET.) with all consequential benefits.

3.The services of the appellant was dispensed with on the ground that he did not possess the requisite qualification. The question which arose for consideration before the Writ Court is whether the degree obtained by the petitioner without passing +2 is valid for the purpose of recruitment. The learned Single Bench relied on the decision of this Court in ***R.Thirunavukkarassu v. The State of Tamil Nadu [2012 (5) CTC 129]*** and dismissed the Writ Petition. We also note that the Writ Court also referred to various decisions of the Division Bench of this Court and also the decisions of the Hon'ble Supreme Court and more particularly in the case of ***Annamalai University v. Secretary to Government, Information and Tourism Department [(2009) 4 SCC 590]***.

4.The learned counsel appearing for the appellant would submit that after the appellant was appointed and his qualification was forwarded to the Department and the appointment was also approved and subsequently he has been dismissed from service.

5.This aspect has been considered by the learned Single Judge in paragraph 22 of the judgment. The learned Single Bench also noted that Show Cause Notice was issued with regard to his



educational qualification and after obtaining explanation and conducting the enquiry the order of dismissal has been passed. The appellant has also participated in the proceedings initiated by the Management and replied to the Show Cause Notice. In any event, not possessing requisite qualification can be brought at any time and there cannot be estoppel on the part of the respondents to adjudicate the issue. Even if the appointment was approved, the same can be recalled and undergoing of a bachelor degree without +2 cannot be considered as a valid qualification.

6.The learned counsel appearing for the appellant placed reliance on the order of this Court passed in ***W.P.No.28172 of 2013 dated 15.10.2014*** in the matter ***C.Dharuman v. Government of Tamil Nadu*** and it is submitted that there is a small window under the UGC Regulations, by which the appellant would be entitled to be considered.

7.In our considered view, the prayer in the present Writ Petition is only challenging the order of dismissal dated 11.06.2015, quoting Government Orders/relevant Rules, which fix the educational qualifications. Furthermore, the respondents being the employer are entitled to fix the qualification necessary for appointment in a Government Service.

8.There are two aspects in the matter, one regards the qualification obtained by the petitioner i.e. the degree obtained in Physical Education and the second aspect is whether based on such degree the appellant can seek for employment as a matter of right. The second question has to be answered against the appellant because the Rule does not permit the person, who has not undergone a regular course of study 10+2+3, to be appointed. We are fully justified with the reasons assigned by the learned Single Bench in dismissing the Writ Petition and no ground has been made out to interfere with the said findings.

9.In the result, the Writ Appeal is dismissed. Consequently, connected Civil Miscellaneous Petitions are also dismissed. No costs.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar(CS)

sj

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To:

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Chennai.

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Ramanathapuram District.

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+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-87060[F] dated
17/09/2019)

+1 CC to M/s.SPL GP (SR-87220[F] dated 17/09/2019)

W.A. (MD) No.585 of 2019

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