



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.07.2019

Delivered on : 03.12.2019

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

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W.P. (MD) No. 14881 of 2019

and

WMP (MD) Nos. 11379 to 11381 of 2019

R. Seenivasan

.. Petitioner

Vs.

1. The Managing Director,
Tamilnadu State Marketing Corporation Ltd.,
(TASMAC),
CMDA Tower II, 4th Floor,
Egmore,
Chennai - 8.

2. The District Manager (Retail Vending),
Tamilnadu State Marketing Corporation Ltd.,
(TASMAC),
Virudhunagar.

.. Respondents

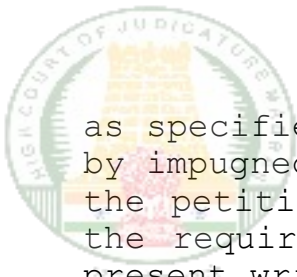
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records in pursuant to the impugned rejection order dated 19.06.2019 passed by the 2nd respondent vide his proceedings in Roc.M1/13476/2016 and to quash the same as illegal.

For Petitioner	: Mr. M. Siddharthan
For Respondents	: Mr. H. Arumugam
	Standing Counsel

ORDER

This Writ Petition has been filed to quash the impugned rejection order dated 19.06.2019 passed by the second respondent in Roc.M1/13476/2016.

2. According to the petitioner, he has completed his U.G. degree in Open University, which is recognised by University Grants Commission and was initially appointed as Bar Assistant in the year 2004 in the respondent Corporation in Virudhunagar District and now he is working as Assistant Salesman in the same station. While so, the first respondent issued a recruitment notification, dated 13.08.2018, inviting applications for the post of Junior Assistant through redeployment. The petitioner has also applied for the same. Though the petitioner having the requisite qualification,



as specified in the recruitment notification, the second respondent, by impugned order, dated 19.06.2019, has rejected the application of the petitioner on the ground that the petitioner has not possessed the required educational qualification. Challenging the same, the present writ petition is filed.

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3.The learned Counsel for the petitioner would submit that the impugned order of rejection is unsustainable in law and also in violation of Article 14, 21 and 300-A of Constitution of India. The learned Counsel further would submit that while rejecting the petitioner's application, the second respondent has not even considered the degree obtained by the petitioner, which is recognised by the University Grant Commission.

4.In this regard, the learned Counsel for the petitioner relied upon the unreported judgment of Honourable Division Bench of this Court, in the case of **M.Rathinavel vs The Registrar General, Madras High Court**, in W.P.(MD)No.11111 of 2016, dated 10.08.2017, for the proposition that there cannot be any discrimination among the degree obtained through Open University and regular stream.

5.The learned Counsel for the petitioner also submit that in all other Government Departments, the required educational qualification for the post of Junior Assistant is 10th standard. However, the respondent department has prescribed Bachelor degree as educational qualification for the post of Junior Assistant. Hence, the learned Counsel for the petitioner would submit that the impugned order of rejection is in violation of law and the same is liable to be dismissed.

6.*Per contra*, the learned Standing Counsel appearing for the respondents submitted that the petitioner has not at all completed the regular stream of education i.e., 10, +2, +3, which is the only scheme of education, recognized by the Government for appointment. Therefore, the impugned rejection order passed by the second respondent is in accordance with law and the same does not warrant any interference at the hands of this Court under Article 226 of the Constitution of India.

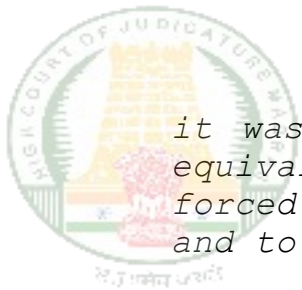
7.I have considered the rival submissions made on either side and perused the materials available on record.

8.The learned Standing Counsel appearing for the respondents, in support of his contention, has relied upon a judgment of a Division Bench of this Court in the case of **Chairman, TRB and another Vs. Kanimozhi**, reported in (2014) 8 MLJ 344, wherein, the Division Bench has held that unless the candidate had obtained a Bachelor's Degree by going through regular stream of education ie., 10, +2, +3 system he/she will not be qualified for appointment as secondary grade teacher. The relevant paragraph reads as follows:



"5.6. The issue of recognition of a degree is different from a qualification fixed in service matters. An eligibility criteria fixed cannot be said to be an indirect way of de-recognizing a degree or diploma. To put in differently, such a degree cannot be termed as an eligible qualification for a particular post. Therefore, we are of the view that though scope and ambit of Regulation 2 of the University Grants Commission has not been considered by the learned Single Judge, the same is not required to be considered in favour of the respondent in view of the express terms as provided in the G.O. passed in G.O. (Ms.) No. 107 Personnel and Administrative Reforms (M) Department, dated 18.08.2009. In this connection, a useful reference can be made to the Full Bench Judgment of the Rajasthan High Court in Shanker Lal Verma and 13 others Vs. Rajasthan State Electricity (1993 (3) LLJ 796), wherein the following passage is apposite:

"32. It is also to be noted that these are not the cases of derecognition of a degree, diploma or certificate issued by a particular institution because of some fault on the part of the Institution awarding the same. The case of derecognition of particular Institutions and consequently derecognition of the degrees, diplomas and certificates issued by such Institutions have to be distinguished from service matters in which certain qualifications are deleted from the rules. Removing or deleting a qualification from eligibility criteria cannot be said to be derecognition of that qualification or a degree, diploma or certificate. It only means that the degree, diploma or certificate. It only means that the degree, diploma or certificate has ceased to be the eligibility qualification for a particular post. It does not take away from the candidate, the degree, diploma or certificate conferred by the Institutions For example, if the eligibility qualification for a particular post was earlier 'Graduate' and by amendment, it is raised to 'Postgraduate', it does not mean that degree possessed by the candidates are derecognised. What it simply means is that the eligibility qualification are enhanced and a higher qualification is now required. It is also to be taken into account that purpose behind amendment to the rule was not to derecognise any degree, diploma or certificate, it was only to delete certain qualifications from the eligibility criteria. This may be because of the changed situation in which the employer may find that candidates who have passed the Secondary School Examination from the Statutory Boards and Universities are available in sufficient numbers and



it was not necessary to consider the candidates having equivalent qualifications. The respondents cannot be forced to accept equivalence of certain qualifications and to accept such equivalence for all times to come."

9. The aforesaid issue involved in the present writ petition was dealt with in detail by the another Division Bench of this Court in **W.P.No.28040 of 2018**, dated 26.10.2018 [**T.Karikalan v. The Secretary, Government of Tamil Nadu, Law Department, Fort St. George, Chennai-9**]. The relevant paragraphs in the aforesaid decision read as follows:

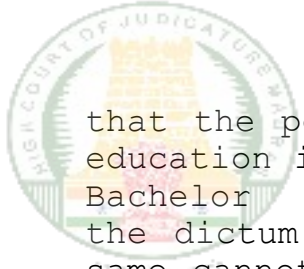
30. In T.L.Muthukumar and Others vs. Registrar General, High Court, Madras and Another, reported in (2011) 2 MLJ 785, petitioners therein, were staff of this court. They did not undergo two year +2 course, but obtained degree, through open Universities. Government issued G.O.Ms No.107 dated 18.08.2009, which stated that those degrees issued by the Open University would be recognised and accepted for appointment and promotion, provided the said degree has been obtained after completing (10+2) Higher Secondary Examination. All the petitioners therein, obtained BA/BBA degree, through correspondence course, but not completed +2 course (Higher Secondary). T.L.Muthukumar and others challenged G.O.(Ms) No.107 Personnel and Administrative Reforms Department dated 18.08.2009 and consequently, prayed for a direction to the Registrar General, High Court, Madras to consider their case for promotion.

Thus it could be seen that, even in the case of recruitment of teachers in Government service, as well as promotion, a degree obtained under 10+2+3 pattern alone, has been permitted.

38. That apart, section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, is virtually the reproduction of G.O.Ms No.107 Personnel and Administrative Reforms Department dated 18.08.2009, which has been upheld by a Hon'ble Division Bench of this court. Needless to state decisions of a Coordinate Bench are binding.

39. In the light of the above discussion and decisions, we are of the view that the prayer sought for cannot be granted. Writ petition is dismissed."

10. Coming to the case on hand, admittedly, the petitioner has completed 10th standard and thereafter, he did U.G.degree through Open University. Having the aforesaid qualifications, he applied to the post of Junior Assistant through online mode, based on the Notification, dated 13.08.2018. However, the second respondent passed the impugned rejection order, taking into account the fact



that the petitioner has not at all completed the regular stream of education i.e., 10, +2, + Degree, instead, he completed S.S.L.C. and Bachelor degree through Open University, and the same is against the dictum laid down by this Court in the aforesaid cases and the same cannot be recognized as one of regular stream of education for recruitment to the post of Junior Assistant in the respondent department.

11. In view of the above, the second respondent has rightly rejected the petitioner's application, vide the impugned order dated 19.06.2019, which, in the considered opinion of this Court, is sustainable in law and the same does not require any interference at the hands of this Court. Therefore, this Court finds no merit in the contention raised by the learned counsel for the petitioner.

12. In fine, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

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To

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(TASMAC),
CMDA Tower II, 4th Floor,
Egmore,
Chennai -8.

2. The District Manager (Retail Vending),
Tamilnadu State Marketing Corporation Ltd.,
(TASMAC),
Virudhunagar.

+1 CC to Mr.P. KALAIYARASI BHARATHI, Advocate (SR-101772[F] dated 27/11/2019)

Order made in
W.P. (MD) No.14881 of 2019
03.12.2019

VB (02.01.2020) 5P 4C