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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 18.07.2019

Delivered on : 08.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. (MD) No. 15413 of 2019

and

WMP (MD) Nos. 12062, 12063 and 12066 of 2019

E. Nainar

.. Petitioner

Vs.

1. The Chairman,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
V.O.C. Nagar,
Park Town,
Chennai - 600 003.

2. The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
V.O.C. Nagar,
Park Town,
Chennai - 600 003.

3. The Controller of Examination
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
V.O.C. Nagar,
Park Town,
Chennai - 600 003.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order dated 01.07.2019 published in the TNPSC Official Website by the 3rd respondent and quash the same as illegal and arbitrary.

For Petitioner : Mr. A. D. Ganeshamoorthi

For Respondents : Mr. D. Sivaraman

ORDER

This Writ Petition is filed challenging the impugned order dated 01.07.2019 published in the TNPSC Official Website by the third respondent.



According to the petitioner, the petitioner is 100% disability blind person and he completed his 10th standard in the academic year 2003-2004 and he joined in pre-foundation course in the academic year 2010-2011 at Madurai Kamarajar University and passed in the year 2013. Thereafter, he completed foundation course in the year 2015 at the very same University. Subsequently, he completed B.Com. course on 06.04.2018. Having requisite qualifications, based on the Notification No.1/2019, issued by the Government, the petitioner has applied Group-I examination and he cleared the preliminary examination. The respondents have provisionally selected the petitioner for main written examination. Based on the provisional selection for main examination, the respondents informed the petitioner to upload the relevant documents and the petitioner has also done the same. Thereafter, the present impugned rejection order dated 01.07.2019, passed by the third respondent was displayed in the website. The said order is under challenge in this Writ Petition.

3. The learned counsel for the petitioner submits that the pre-foundation course and foundation course undergone by the petitioner at Madurai Kamaraj University are equivalent to S.S.L.C and H.S.C. But, in the impugned order it has been stated that as per G.O.Ms.No.144, P & AR (M) Department dated 20.11.2017, the pre-foundation course and foundation course are not equivalent to S.S.L.C and H.S.C. The said Government Order has come into force on 20.11.2017, whereas, the petitioner has completed the course in the year 2015 itself. Further, the aforesaid Government Order was coming into force only from the date of the Government Order. Therefore, the impugned order passed by the third respondent is liable to be quashed.

4. Per contra, the learned Standing Counsel appearing for the respondents submitted, 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 getting employment and the foundation course undergone by the petitioner is not equivalent to the regular course. Therefore, the impugned rejection order passed by the third 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.

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

6. The issue that arises for consideration, in the present writ petition, is as to whether the pre-foundation course and foundation course undergone by the petitioner are equivalent to S.S.L.C and H.S.C or not?

7. 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 education under the 10 +2 +3 system he/she will not be qualified for appointment as secondary grade teacher. The relevant paragraph reads as follows:

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"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."

8. The aforesaid issue involved in the present writ petition was dealt with in detail by 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."

9. Coming to the case on hand, admittedly, the petitioner has completed 10th standard and thereafter, he did pre-foundation course and foundation course, which according to the petitioner, are equivalent to S.S.L.C. and H.S.C. Having the aforesaid qualifications, he applied Group - I examination, based on Notification No.1/2019 and he was provisionally selected to attend the main written examination. However, the third 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., S.S.L.C., +2, Degree, instead, he underwent pre-foundation course and foundation course, and the same is against the dictum laid down by this Court in the aforesaid cited cases and the same cannot be recognized as one of regular stream for recruitment of the petitioner in Group - I examination, conducted by the Tamil Nadu Public Service Commission.

10. Considering all these aspects, the third respondent has rightly rejected the petitioner's application vide the impugned order dated 01.07.2019, 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, since the petitioner had acquired the pre-foundation course and foundation course, instead of passing in regular stream and applied for examination, which is liable to be rejected for recruitment. Therefore, this Court finds no merit in the contention raised by the learned counsel for the petitioner.

11. In fine, this writ petition is dismissed. No costs. Consequently, WMP(MD)Nos.12062, 12063 and 12066 of 2019 are closed.

Sd/-

Assistant Registrar (Records)

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Sub Assistant Registrar(CS)

+1 CC to M/s.A.D.GANESHA MOORTHY, Advocate (SR-80589[F] dated 08/08/2019)

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-80702[F] dated 08/08/2019)

W.P. (MD) No.15413 of 2019

MJ