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W.P.(MD) Nos.16492 & 16499 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) Nos.16492 & 16499 of 2014

and

M.P. (MD) Nos.1 & 2 of 2014 (in both W.Ps.)

Natarajan ... Petitioner in W.P.(MD) No.16492 of 2014

A.Savarimuthu ... Petitioner in W.P.(MD) No.16499 of 2014

vs.

1.The Principal Secretary to Government
School Education Department
St.George Fort, Chennai

2.The Chairman
Teachers Recruitment Board
Chennai-600 006

3.The Director of School Education
Chennai ... Respondents in both W.Ps.

PRAYER (in W.P.(MD) No.16492 of 2014): Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus thereby quash the Government Order (Ms) No.71, dated 30.05.2014 of School Education (TRB) Department and consequently direct the 2nd respondent to consider the candidature of the petitioner as eligible for appointment as Graduate Assistant under the preferential category of "Persons Studied in Tamil Medium".

PRAYER (in W.P.(MD) No.16499 of 2014): Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus thereby quash the Government Order (Ms) No.71, dated 30.05.2014 of School Education (TRB) Department, quash the same and consequently direct the 2nd respondent to consider the candidature of the petitioner as eligible for appointment as Graduate Assistant.

For Petitioner : Mr.P.Ganapathi Subramanian
(in both W.Ps.)



For Respondents : Mr.V.R.Shanmuganathan
(in both W.Ps.) Special Government Pleader

C O M M O N O R D E R

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These writ petitions are filed challenging the Government Order issued in G.O.(Ms).No.71, School Education (TRB) Department, dated 30.05.2014 and for a direction to provide appointment to the writ petitioners in the post of Graduate Assistant.

2. The issue raised in the present writ petitions was already adjudicated by this Court and the matter went upto the Supreme Court and the Honourable Apex Court of India passed an order in the case of **V.Lavanya & Ors Vs. The State of Tamil Nadu & Ors**, reported in **2017(1) SCC 322**. The relevant paragraphs of the said order are extracted hereunder:-

"41. 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 vs. Union of India* (1975) 3 SCC 76). We hold that it is the prerogative of State-Authorities to formulate a system whereby weightage 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 decision taken by the experts and perform the job of the respondent-State. Moreover, the High Court has also noted that submission of learned Advocate General that almost all the appellants have



completed their High Secondary examination from the State Boards.

42. 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 ETE 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.

43. The Madras High Court rightly rejected the challenge to G.O(Ms.)No.25 dated 06.02.2014 and G.O.(Ms.)No.71 dated 30.05.2014, holding that as per the NCTE Guidelines, the State Government has the power to grant relaxation on the marks obtained in the TET for the candidates belonging to reserved category and the same is affirmed. The Madurai Bench did not keep in view the NCTE Guidelines and the power of the State Government to grant relaxation in terms of their extant reservation policy and erred in quashing G.O.(s.)NO.25 dated 06.02.2014 and hence the same is liable to be set aside.

44. The appeals filed by the State Government are, accordingly, allowed and the impugned judgment of the Madurai Bench is set aside. The impugned Judgment of the Madras Bench of the High Court is affirmed and all the appeals preferred by the unsuccessful candidates are dismissed."

3. In view of the judgment of the Honourable Supreme Court of India upholding the validity of the Government Order issued in G.O.(Ms).No.71, School Education (TRB) Department, dated 30.05.2014, no further consideration is required in respect of the grounds raised



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in the present writ petitions and accordingly, these writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To:

- 1.The Principal Secretary to Government,
School Education Department,
St.George Fort, Chennai.
- 2.The Chairman,
Teachers Recruitment Board,
Chennai-600 006.
- 3.The Director of School Education,
Chennai.

W.P. (MD) Nos.16492 & 16499 of 2014
and
M.P. (MD) Nos.1 & 2 of 2014
(in both W.Ps.)

KRK

KK/SAR/26.08.2019/4P-4C/