



WEB COPY

W.A(MD) NOS.1606 and 834 OF 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A(MD) NOS.1606 and 834 OF 2018

and

C.M.P(MD) Nos.11709 and 5024 of 2016 and 9050 of 2018

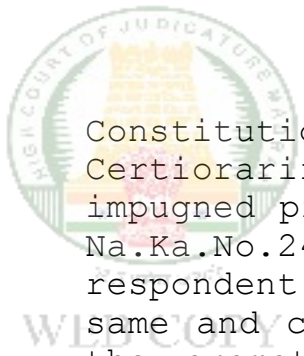
- 1.S.Saravanan :Appellant/Writ Petitioner in W.A(MD)No.
1606 of 2018
- 2.A.Dharmaraj :Appellant/5th Respondent in W.A(MD)No.
834 of 2018
- .vs.
- 1.The Chief Educational Officer,
Pudukkottai.
- 2.The District Elementary Educational Officer,
Pudukkottai.
- 3.The Assistant Elementary Educational Officer,
Avudaiyarkovil,
Pudukkottai District.
- 4.P.Arunkumar
Secondary Grade Teacher,
Pilluvalasi Union Elementary School,
Avudaiyarkovil Taluk,
Pudukkottai District. :Respondents 1 to 4 in
both Writ Petitions
- 5.A.Dharmaraj,
Secondary Grade Teacher,
Meemisal Union Elementary School,
Avudaiyarkovil Taluk,
Pudukkottai District. : Fifth Respondent in
W.A(MD)No.1606 of 2018
- 6.S.Saravanan :Fifth Respondent in
W.A(MD)No.834 of 2018

COMMON PRAYER: Writ Appeals filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.15019 of 2016, dated 21.3.2018.

Prayer in WP(MD). 15019/ 2016 :

Writ Petition is filed under Article 226 of the

<https://hcservices.ecourts.gov.in/hcservices/>



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Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings in Na.Ka.No.2490/A3/2016 dated 06.08.2016 and Na.Ka.No.2490/A3/2016 dated 06.08.2016 passed by the (*)2nd respondent in favour of the Respondents 4 & 5 herein and quash the same and consequently directing the (*)2nd respondent to consider the promotion to the petitioner for the post of B.T.Assistant (English) .

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For Appellant	:Mr.D.Shanmugaraja Sethupathi
For Respondents 1 to 3	:Mrs.S.Srimathi Special Govt.Pleader
For Respondent-4	:Mr.R.Murali

W.A(MD)No.834 of 2018

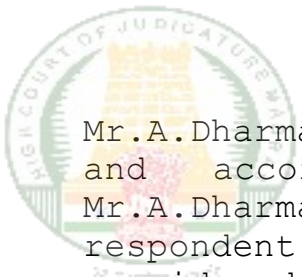
For Appellant	:Mr.K.Gokul
For Respondents 1 to 3	:Mrs.S.Srimathi Special Govt.Pleader
For Respondent-4	:Mr.S.Premkumar
For Respondent-5	:Mr.D.Shanmugaraja Sethupathi

COMMON JUDGMENT

[Judgment of the Court was made by **T.S.SIVANANAM,J.**]

These Writ Appeals are directed against the order made in W.P (MD)No.15019 of 2016.

2.The appellant in W.A(MD)No.834 of 2018 Mr.A.Dharmaraj is the fifth respondent in the Writ Petition. The appellant in W.A(MD) No.1606 of 2018 Mr.S.Saravanan is the Writ Petitioner. The appellant/Writ Petitioner challenged the eligibility of the respondents 4 and 5 namely, Mr.P.Arunkumar and Mr.A.Dharmaraj (appellant in W.A.(MD)No.834 of 2018) on the ground that they did not possess the requisite educational qualification and they pursued two degree courses simultaneously. With regard to the case of Mr.A.Dharmaraj, the learned Single Bench considered the dates on which the said candidate had acquired his B.A English Course and M.A. Tamil Course. Agreed with the Writ Petitioner that



Mr.A.Dharmaraj was not pursuing two degree courses simultaneously and accordingly allowed the Writ Petition insofar as Mr.A.Dharmaraj was concerned. With regard to the fourth respondent Mr.P.Arunkumar, the learned Single Bench has considered that though he had acquired himself with B.A English Course in Annamalai University and has completed the first year and thereafter discontinued and subsequently he had done B.Ed course, which according to the learned Writ Court had joined only in January 2013 and therefore, there is no overlap. So far as the case of Mr.A.Dharmaraj is concerned, the learned counsel for the appellant would vehemently contend that the course undergone by the appellant/Dharmaraj is a course based on academic but not on the calendar year. It is his case that the appellant had joined B.A English in January 2012 and completed the Course in December 2014 and simultaneously, he joined M.A.Tamil in May 2013 and completed the Course in April 2015. Thus, it is the argument that the course is conducted in the calendar year and there is no overlap.

3.Firstly, we need to point out that there is a great doubt as to whether the Course can be conducted in a calendar year because the documents which have been filed in the typed-set of papers shows the academic year and there is no specific mention of the calendar year. Even assuming that the Course has been conducted by the University in the calendar year, Mr.A.Dharmaraj produced the Course Completion Certificate, dated 29.9.2015 which shows that he has completed the course in the calendar year 2012-2014, There is no overlap in the second year of the course, as A.Dharmaraj has joined M.A Tamil only in May 2013.

4.The learned counsel for the appellants would contend that the appellant was permitted by the department to pursue his M.A Tamil during the academic year 2013-2015 vide proceedings, dated 28.2.2014. The permission granted by the Department for acquiring higher qualification can have no justification to justify in pursuing two courses simultaneously. We, therefore, concur with the view taken by the learned Single Bench insofar as the case of A.Dharmaraj is concerned.

5.Nextly, we consider the case of P.Arunkumar, who was the fourth respondent in the Writ Petition. The learned Single Bench dismissed the Writ Petition as against the said Arunkumar accepting the argument that Arunkumar discontinued B.A English Course after the first year course and B.Ed course was completed in December 2012 and thereafter only in January 2013, the said Arunkumar re-joined in the second year of B.A Course. To establish this fact, the said candidate P.Arunkumar placed reliance on the Fee Paid Certificate, dated 26.10.2016, wherein, the date of demand date for payment of the second year fees namely, the



first instalment is shown as 18.1.2013. The Fee Paid Certificate obtained much after the filing of the Writ Petition, cannot in any manner justify the date on which the academic session would begin for the course. Even in the said certificate, the three years are mentioned as 2009-2010, 2012-2013 and 2013-2014. Thus in the absence of any other record to take the year as academic year or calendar year, it should be in May 2012. Even assuming that there is late admission which was done by the Open University, that cannot alter the period as academic session. Probably additional class will have to be taken, if it is a regular course. But being a correspondence course, Annamalai University face no such problem and even if it has admitted the candidate in the fake end of the academic session, still on record, the candidate will be shown as admitted at the commencement of the academic session.

6. Therefore, we are of the view that the candidate Arunkumar also had pursued simultaneously two degree courses. One more reason to support this conclusion is by taking into account the fact that P.Arunkumar joined in the second year in the B.A.Course, if P.Arunkumar joined as a fresh candidate in the first year in B.A Course, problem would not have arisen. Therefore, the University by condoning the break, has treated him as a candidate who has joined the course in the academic year 2009-2010. Therefore, the said candidate P.Arunkumar also has to be non- suited on the ground that he had pursued two degree courses simultaneously. One of us (TSSJ) sitting in the Single Bench, had an occasion to deal with more or less identical issue in W.P.No.26275 pf 2014. After noting the factual position and which was also a case where a candidate discontinued and rejoined in the middle of the Course, the Writ Petition was dismissed by an order, dated 12.11.2014. Therefore, we are of the considered view that the learned Single Judge ought to have allowed the Writ Petition as against P.Arunkumar also.

7. The learned counsels appearing for A.Dharmaraj and P.Arunkumar would submit that the appellant/Writ Petitioner S.Saravanan is also no better a candidate, as he has also pursued two courses simultaneously. If that is so, it goes without saying that the District Elementary Educational Officer or the Chief Educational officer concerned should verify the same and if it is found that the appellant/Saravanan had pursued two courses simultaneously, appropriate action should be taken against Saravanan, as to his entitlement to be promoted, after notice. Before parting with the matter, we make an observation as to why the Department has not done any proper verification and without application of mind, has processed the papers unmindful of the fact and ultimately, the sufferer is the Teacher, who has acquired qualification with the fond hope that the Department will provide promotional opportunities. When that is denied, the morale of



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the Teacher stands affected and ultimately the victim are the children. It is high-time, the officers concerned should wake up of the situation.

8. For all the above reasons, W.A(MD)No.834 of 2018 stands dismissed and W.A.(MD)No.1606 of 2019 stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

vsn

To

1.The Chief Educational Officer,
Pudukkottai.

2.The District Elementary Educational Officer,
Pudukkottai.

3.The Assistant Elementary Educational Officer,
Avudaiyarkovil,
Pudukkottai District.

1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-89781[F]
dated 26/09/2019)

+1 CC to M/s.S.PREMKUMAR, Advocate (SR-89917[F] dated
27/09/2019)

+1 CC to M/s.S.SRIMATHY, Advocate (SR-89978[F] dated 27/09/2019)

+1 CC to M/s.GP (SR-90259,90260[F] dated 27/09/2019)

+1 cc to Mr.K.Gokul , Advocate SR.No.90377

COMMON JUDGMENT MADE IN

W.A(MD)NOS.1606 and

834 OF 2018

and

C.M.P(MD)Nos.11709 and

5024 of 2016 and 9050 of 2018

26.09.2019

KM/(14.10.2019) 5P 9C