

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.NO.245 of 2020
and
WMP Nos.286 & 287 of 2020

G. Dhandapani

... Petitioner

-Vs-

1. The Chairman
Teacher Recruitment Board
4th Floor, E.V.K. Sampath Maligai
DPI Campus, College Road
Chennai 600 006.
 2. The Directorate
Directorate of Technical Education
Guindy 600 025
 3. All India Council for Technical Education
Nelson Mandela Marg, Vasant Kunj
New Delhi 110 070
- ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ, order, or direction more particularly a Writ in the nature of Writ of Certiorarified Mandamus to call for the records relating to the impugned Notification issued by the 1st respondent in No.14/2019 dated 27.11.2019 and to quash the same insofar as prescription of qualification for the post of Lecturer in Non-Engineering subject as per Clause 6(b)(2) is concerned and consequently directing the respondents to prescribe the qualification for the post of Lecturer in Non Engineering subject as Master degree in appropriate subject with First Class or equivalent to Bachelors or Masters level and consequently permit the petitioner to participate in the selection in pursuant to selection for the post of Lecturer in Chemistry in pursuant to Notification No.14/2019 dated 27.11.2019.

For Petitioner : Mr. G. Sankaran

For Respondents

for R1 : Mr.C. Munusamy
Special Government Pleader
for R2 : Mr. S. Karthikei Balan
Government Advocate.

ORDER

This Writ Petition has been filed challenging the notification issued by the first respondent dated 27.11.2019 and for a consequential direction to permit the petitioner to participate in the selection by taking into account the first class that was obtained by him in the Bachelor's Degree.

2. The case of the petitioner is that AICTE has fixed the qualifications and norms for the appointment of teaching posts in Diploma level Technical Institutions. This was also followed by the Government of Tamil Nadu in G.O. Ms.No.111 of 25.05.2010. The third respondent had issued a notification on 27.11.2019 calling for applications to fill up the post of lecturer in the Government Polytechnic Colleges and Special Institutions (engineering / non engineering). As per the notification, 84 vacancies have been notified to the post of lecturer in Chemistry and out of the same, 8 vacancies have been reserved for Scheduled Caste community. The post of lecturer in Chemistry comes under non engineering category.

3. The petitioner has challenged the notification with regard to the qualification prescribed under Clause 6 (b) (2) of the notification. The same is extracted here under.

"6. Qualifications:

(b) (2) : Lecturer in non-Engineering subjects : a first class Master's degree in the appropriate branch of study."

4. According to the petitioner, this stipulation in the notification runs contrary to the norms fixed by the AICTE and the earlier Government Order passed in G.O.Ms.No.111 dated 25.05.2010. According to the petitioner, a reading of the AICTE norms and the Government Order clearly shows that it is enough if a first class is obtained either in the Bachelor's Degree or in the Master's Degree and it is not necessary that a candidate has to necessarily secure a first class in the Master Degree. Aggrieved by this stipulation, the present Writ Petition has been filed before this Court on the ground that the petitioner who did not obtain a first class in the Master Degree is not

able to participate in the selection.

5. Mr. G. Sankaran, learned counsel appearing on behalf of the petitioner submitted that the concerned clause in the notification runs contrary to the qualification prescribed under the AICTE Regulations and the Government order. The learned counsel submitted that the notification cannot prescribe a different qualification than the one that is stipulated, without there being any change in the Rules of the State Government. When the State Government had chosen to adopt the norms fixed by AICTE, the notification cannot prescribe for a different qualification and it cannot go against the Regulations and the Government Order. The learned counsel submitted that even though the Government Order and AICTE Regulations does not categorically or clearly convey the meaning, the last portion of the stipulation makes it clear that it is enough if a first class is obtained either in the bachelor's degree or in the Master's degree and there is no necessity for a first class at both the levels. The learned counsel submitted that in view of the same, the notification issued by the third respondent requires interference and the petitioner must be permitted to participate in the selection since he has satisfied all the other qualifications prescribed under the notification.

6. Per contra, the learned counsel appearing on behalf of the first and second respondent submitted that the notification issued by the first respondent is not contrary to the norms fixed by the AICTE and the earlier Government Order. The learned counsel submitted that even AICTE has issued a clarification to the respondents to the effect that the Government can adopt higher standards and qualification than the minimum qualification notified by AICTE and, therefore, there is nothing wrong in the respondents prescribing the qualification of a first class in the Master's degree. It was further contended that there was an earlier Government Order passed in this regard in G.O. Ms. No. 165 dated 13.06.2006, wherein the ad-hoc Rules were issued and it clearly stipulates that no person will be eligible for appointment to the post unless he possesses a first class Master Degree in appropriate branch of study. The learned counsel, therefore, submitted that there is absolutely no merit in the present Writ Petition and the same is liable to be dismissed.

7. This Court carefully considered the submissions made on either side and the materials available on record.

8. The only issue that requires consideration of this Court is the interpretation of the language that has been used by the AICTE and subsequently followed by the Government in G.O. Ms. No.111 dated 25.05.2010. The stipulations prescribed is

extracted hereunder :

Humanities and Sciences	First class Master's degree in appropriate subject with first class or equivalent at Bachelor's or Master's level
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9. The above norms fixed by the AICTE have also been adopted by the Government in the abovesaid Government Order.

10. The petitioner has secured a first class in the UG degree and has secured a second class in the PG degree. According to the petitioner, a reading of the AICTE norms and the Government Order, clearly shows that it is enough if a first class is secured either in the UG degree or in the PG degree and it is not necessary that the candidate should have secured a first class at both the levels.

11. It is true that the above extracted stipulation that was prescribed is not happily worded. The norms could have clearly stated as to whether a first class is required for the Master's degree or for the UG degree or for both. The prescription of the qualification in the notification should not go to the extent of giving it an interpretation by a Court of law as if it is trying to decipher the meaning of an enactment. Unfortunately, this Court has been pushed to assign the meaning to the norms fixed by the AICTE, which was followed by the Government in the abovesaid Government Order. It starts by saying that there shall be a first class Master's degree in the appropriate subject. This Court cannot assign a meaning to the said clause by completely disregarding the same and only by taking into consideration the later portion of the clause. In the considered view of this Court, the clause clearly starts with the words "first class Masters degree in the appropriate subject". This should only mean that the candidate should secure a first class at the Master's degree level. This is how it has been understood by the first respondent and this Court does not find any infirmity in the understanding of the first respondent with regard to the stipulation prescribed by AICTE and followed in the Government Order. This Court cannot try to give it a different interpretation on the basis of the last portion of the above clause. The petitioner had secured a first class in the Bachelor's degree and he has secured only second class in the Master's level. Therefore, the petitioner wants it to be interpreted in such a way that it is not necessary to get a first class in the Master's degree. The interpretation has to be consistent since it will be applied across the board for all the candidates. Such interpretation cannot be made to suit a

particular case. It is important that such an interpretation is made atleast at this juncture by this Court so that this confusion does not continue. In fact, this Court would request the third respondent, namely, AICTE to make the clause more clearer and understandable so that it does not cause any unnecessary confusion in future.

12. This Court does not find any ground to interfere with the notification issued by the first respondent. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

bga

To

1. The Chairman
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4th Floor, E.V.K. Sampath Maligai
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Chennai 600 006.
 2. The Directorate
Directorate of Technical Education
Guindy 600 025
 3. All India Council for Technical Education
Nelson Mandela Marg, Vasant Kunj
New Delhi 110 070
- +1 cc to M/s.G.Samkaran, Advocate Sr.No. 13945
+1 cc to The Government Pleader, Sr.No. 14260

W.P.NO.245 of 2020

RR (CO)
RMP (21/07/2020)

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