

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.A.No.3275 of 2019

and

C.M.P.No.20773 of 2019

(Through Video Conferencing)

R.Padmini

...Appellant

Vs.

The Chairman  
Teachers recruitment board,  
4<sup>th</sup> Floor, EVK Sampath building,  
Chennai - 600 006.

...Respondent

Writ Appeal filed under Clause 15 of the Amended Letters Patent of 1865, to set aside the order in W.P.No.28756 of 2018 dated 04.03.2019 passed by this Court.

Prayer in WP 28756/2018:

This Writ Petition filed under Article 226 of Constitution of India, praying to call for the records in proceedings no. nil published in official website of respondent dated 12.10.2018 on the file of respondent and quash the same as illegal incompetent and without jurisdiction and further direct the respondent to select the petitioners as physical education teachers based on the Degree awarded by the recognized university and for consequential orders. सत्यमेव जयते

For Appellant : Mr.V.Raghavachari

For Respondent : Mr.C.Munusamy, Spl.G.P.

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J U D G M E N T

(Judgment of the Court was delivered by C.SARAVANAN, J.)

This Writ Appeal has been filed against the impugned order dated 04.03.2019 passed by the learned Single Judge in W.P.No 28756 of 2018. By the impugned order, the learned Single Judge had dismissed a batch of Writ petitions filed by the appellant and others.

2. The above writ petition was filed by the appellant for the following relief:-

For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble court may be pleased to issue a Writ of Certiorarified Mandamus or any other appropriate Writ or Direction, to call for the records in proceedings No. Nil published in the official website of the respondent dated 12.10.2018 and quash the same as illegal, incompetent and without jurisdiction and for the direct the respondent to select the Petitioners as Physical Education Teacher based on the Decree awarded by the recognised University and pass such further or other orders as this Hon'ble court may deem fit and proper in the circumstances of the case and thus render justice.

3. In the advertisement, impugned before the learned Single Judge, issued by the respondent, applications were called for the post of Physical Education Teacher (PET). As per the aforesaid advertisement published by the respondent in their website on 12.10.2018, the prescribed qualification for the aforesaid post among several other qualifications was a Bachelor Degree in Physical Education (B.P.Ed) or, a Bachelor Degree in Physical Education and Sports (B.P.E.S) etc. It did not specifically indicate that Bachelor of Physical Education (B.P.E).

4. The appellant is said to have completed 3 year B.P.E course in Annamalai University. It was submitted by the appellant that the aforesaid course completed by the appellant was equivalent to B.P.E.S and since the appellant had secured 75/95 marks in the examination conducted by the respondent, she was to be appointed as B.P.E.S. Students. The appellant also submitted representation dated 15.10.2018 enclosing the annexures.

5. It was the contention of the appellant that the Government of India had earlier published a Gazette Notification treating a degree awarded in the field of Sports Science should be classified as B.P.Es and the duration of the course should be for 3 years. It was further submitted that earlier, UGC had treated the part of the degree awarded for Physical Education as B.P.E so far as B.P.E, B.P.Es and B.P.Ed. are to be treated as one and the same. It is submitted that the Government of Tamil Nadu also recognised the same in its G.O.(Ms.)No.273 and that the Annamalai University had also issued clarification in this regard.

6. Since the name of the appellant did not find its place in the tentative list published by the respondent on the ground that the appellant did not qualify within the cut-off mark and because the appellant only had degree in Bachelor of Physical Education (BPE) and not Bachelor of Physical Education and Sports (BPES) and therefore the appellant lacked the requisite qualification.

7. The writ petition filed by the appellant was dismissed by the learned Single Judge along with other writ petitions vide the impugned order. The learned Single Judge concluded that equivalence of qualifications are to be done in the manner prescribed under Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and since High Court cannot grant equivalence by exercising the power under judicial review under article 226 of the Constitution of India, the writ petition filed by the appellant was liable to be dismissed.

8. Today, when this Writ Appeal was taken up for final disposal, Mr.Munusamy, the learned Special Government Pleader fairly conceded that the issue is now covered by a decision passed on 30.01.2020 by the Hon'ble First Bench of this Court while disposing a batch of writ appeals (in W.A.No 3812 of 2019 and batch, in V.Kalamegakannan Vs. The Teachers Recruitment Board and Another).

9. By the said order the Hon'ble First Bench of this Court considered G.O.(Ms) 143, School Education (SE3(1)) Department, Dated 19.08.2019; G.O.(Ms) No.9, Youth Welfare and Sports Development (YW2) Department, dated 27.01.2020 and G.O.(Ms) No.218, School Education [SE3(1)] Department, dated 06.12.2019. After extracting these government orders the court held as follows:-

5. A perusal of the above Government Orders shows that they are in compliance of the directions issued by the High Court (Madurai Bench), whereafter an Equivalence Committee was constituted and the Equivalence Committee vide its meetings, as referred in the Government Orders, proceeded to grant equivalence in the manner indicated therein. In the present set of appeals, the equivalence as set out is being claimed by the appellants and they contend that the said Government Orders cover their cases.

6. Learned Additional Advocate General appearing for the State has not disputed the issuance of the Government Orders aforesaid, but contends that in the event the appellants are

covered by the said Government Orders, the Government shall consider their candidature, provided they fulfill other eligibility conditions.

7. Having considered the submissions, we find that the judgments of the learned Single Judge deserve to be set aside and accordingly, the impugned judgments dated 22.2.2019, 27.2.2019, 4.3.2019 and 6.3.2019 are set aside with a direction to the Government to consider the candidature of the appellants in terms of the Government Orders, referred to herein above, and pass appropriate orders within six weeks, as prayed for.

The appeals are accordingly allowed on the above terms.

10. The impugned order of the learned Single Judge was also challenged in some of the Writ Appeals which came to be disposed by the Hon'ble First Bench of this Court along with other Writ Appeals. Thus, the impugned order of the learned Single Judge has already been set aside.

11. In the light of the above, we are also inclined to allow this Writ Appeal by setting aside the order of the learned Single Judge. Therefore, the impugned order passed by the learned Single Judge is set aside. The respondent is therefore directed to consider the candidature of the appellant in terms of the Government Orders referred to above and in the said decision of the Hon'ble First Bench of this court.

12. The Writ Appeals is accordingly allowed on the above terms. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

jen

To:-

The Chairman,  
Teachers recruitment board,  
4<sup>th</sup> Floor,  
EVK Sampath building,  
Chennai - 600 006.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.25817  
+1cc to the Government Pleader, S.R.No.25759

W.A.No.3275 of 2019 and  
C.M.P.No.20773 of 2019

RJI (CO)  
KKV/27/08/2020



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