



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.11.2020

(Reserved on 20.02.2020)

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.1326 of 2014

and

M.P(MD)Nos.1 and 2 of 2014

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Dr.R.Dominic Sahaya Rajan

... Petitioner

vs.

1)The State of Tamil Nadu
Represented by its Principal Secretary,
Department of Collegiate Education,
Fort St.George, Chennai-09.

2)The Director of Collegiate Education,
Chennai-600 006.

3)The Secretary,
Teachers Recruitment Board,
EVK Sampath Maligai,
DPI Compound, College Road,
Chennai-06.

... Respondents

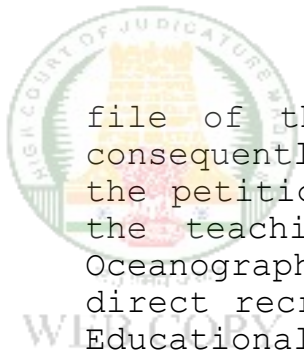
Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in O.Mu.No.66385/T5/2013, dated 30.12.2013 on the file of the respondent No.2 and quash the same as illegal and consequently to direct the respondents 2 and 3 to award marks for the petitioner's qualification of Doctorate in Oceanography and for the teaching experience with the qualification of doctorate in Oceanography for 3 years (2010 to 2013) as per the prospectus for direct recruitment of Assistant Professors in Tamil Nadu Collegiate Educational Service for Government Arts & Science Colleges - 2012 and accordingly to appoint the petitioner in the post of Assistant Professor in Chemistry within the time stipulated by this Hon'ble Court.

For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.V.R.Shanmuganathan
Special Government Pleader

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in O.Mu.No.66385/T5/2013, dated 30.12.2013 on the

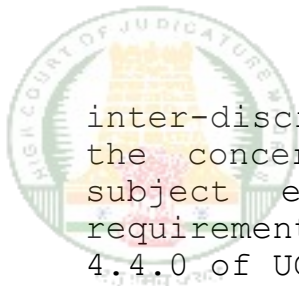
<https://hcservices.ecourts.gov.in/hcservices/>



file of the respondent No.2 and quash the same as illegal and consequently to direct the respondents 2 and 3 to award marks for the petitioner's qualification of Doctorate in Oceanography and for the teaching experience with the qualification of doctorate in Oceanography for 3 years (2010 to 2013) as per the prospectus for direct recruitment of Assistant Professors in Tamil Nadu Collegiate Educational Service for Government Arts & Science Colleges - 2012 and accordingly appoint the petitioner in the post of Assistant Professor in Chemistry within the time stipulated by this Court.

2.The case of the petitioner is that he studied B.Sc., M.Sc., and M.Phil in Chemistry and also completed Ph.D in Oceanography from Alagappa University, Karaikudi, in the year 2010 and is working for the past 18 years as Assistant Professor in various colleges under the self-finance scheme. While so, the 3rd respondent issued a notification calling for application for direct recruitment to the post of Assistant Professors in Tamil Nadu Collegiate Educational Service for Government Arts and Science Colleges - 2012. The petitioner applied for recruitment to the post of Assistant Professor in Chemistry and he was issued with a call letter for certificate verification and his roll number is 1605539. The petitioner attended the certificate verification on 25.11.2013 in Chennai and according to him, his certificate verification number is 13APD080078. At the time of certificate verification, it was expressed that the equivalence of his Ph.D in Oceanography with Ph.D in Chemistry should be verified. As the petitioner could not get any response, he sent a representation dated 25.11.2013 to the 3rd respondent and to the Chief Minister's Cell. The present impugned order in O.Mu.No.66385/T5/2013 was passed by the 2nd respondent rejecting the request of the petitioner to consider Ph.D Oceanography as equivalent to Ph.D in Marine Chemistry and therefore, the marks could not be allowed for the qualification of the petitioner in Ph.D Oceanography. According to the petitioner, the respondents are duty bound to verify whether the Ph.D Oceanography is equivalent to Ph.D in Chemistry and without verifying the same, the impugned order has been passed and therefore, the petitioner has filed this writ petition.

3.Learned counsel for the petitioner would state that Alagappa University vide proceedings in Rc.R3/Ph.D/0950/2018 dated 09.05.2018 has categorically stated that Ph.D awarded to the petitioner in Oceanography is related to the discipline of Chemistry. The said decision of the University has been taken with the help of subject experts in the concerned field. Further, the Government Order in G.O.Ms.No.306, Higher Education Department, dated 27.10.2017 categorically provides that the relevance of inter-disciplinary Ph.Ds will be decided by the University concerned with the help of subject experts in the concerned/related field as already directed in the Government Order in G.O.Ms.No.298, Higher Education Department, dated 20.10.2017. Accordingly, the University Grants Commission also clarified that the relevance of subject or



inter-disciplinary nature of subject is required to be decided by the concerned University/Appointing Authority with the help of subject experts in the concerned/related field as per its requirement and UGC Regulations 2010 defines the same in Clause 4.4.0 of UGC Regulations 2010.

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4.Learned counsel for the petitioner would further state that the Full Bench of this Court in Nadar Thanga Subha Laxman A. vs. State of Tamil Nadu reported in (2014) 3 CTC 433, has categorically held that the equivalence granted by the equivalence committee will have retrospective effect from the date of completion of the degree in the concerned subject and therefore, the equivalence granted by the Alagappa University will have retrospective effect from the date of completion of Ph.D by the petitioner and hence it is just and necessary to award 23 marks to the petitioner for completing Ph.D degree in Oceanography and to appoint the petitioner in the post of Assistant Professor in Chemistry.

5.The respondents have filed counter affidavit. Learned Special Government Pleader appearing for the respondents would state that the writ petition is totally misconceived and the petitioner who pursued Ph.D in Oceanography is not eligible to apply for the post of Assistant Professor in Chemistry as no equivalence G.O treating the Ph.D in Oceanography as equivalent to Ph.D in Chemistry has been issued by the Government of Tamil Nadu. The petitioner has not obtained Ph.D in the subjects relevant or related to Chemistry and therefore, he is not entitled to be considered for selection as Assistant Professor as per clause 4 of the prospectus for the year 2012.

6.Learned Special Government Pleader would further state that the Directorate of Collegiate Education, in O.Mu.No.66385/T5/2013 dated 30.12.2013 rejected the claim of the petitioner to consider the qualification in Ph.D in Oceanography as equivalent to Ph.D in Chemistry. He would further state that when the petitioner was not eligible for the post of Assistant Professor in Chemistry, the question of awarding weightage marks for the teaching experience to the petitioner for the year 2010 to 2013 does not arise. He would also rely on the judgment of the Division Bench of this Court in Dr.M.Vennila vs. TNPSC reported in 2006 (3) CTC 449, wherein, at paragraph 25 of the order dated 12.06.2006, it has been held that the terms and conditions of instructions etc., to candidates and information brochure have the force of law and have to be strictly complied with. The aforesaid order has been passed on the strength of the authoritative precedents of the Apex Court and the decision of the Full Bench of the High Court of Punjab and Haryana. In the light of the above said order, the petitioner cannot be considered for further selection as it would amount to gross violation of the terms of the prospectus relating to possession of Ph.D in the relevant subject. The petitioner would also state that the issue



Principal Seat of this Court in W.P.No.4473 of 2014 and therefore, would pray for dismissal of the writ petition.

7. Heard the learned counsel for the petitioner as well as the learned Special Government Pleader for the respondents.

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8. Perusal of record shows that the equivalence of the subject has been decided by the Alagappa University as per G.O.Ms.No.306, Higher Education Department, dated 27.10.2017 with the help of experts already directed in G.O.Ms.No.298, Higher Education Department, dated 20.10.2017 stating that Ph.D awarded to the petitioner in Oceanography is related to the discipline of Chemistry. Such an order has been passed only in 2018, but the recruitment process had taken place in the year 2012. The only issue to be decided is whether the petitioner can be accommodated in the selection process which has taken place in 2012 by virtue of the equivalence granted in 2018.

9. In the judgment relied on by the petitioner reported in **2014 (3) CTC 433, Nadar Thanga Shubha Laxman A vs. The State of Tamil Nadu**, the Full Bench of this Court has relied on various judgments of the Apex Court and came to the following conclusion:-

'21. that a right whether inchoate or accrued or acquired right can be held to be protected, provided the right survives. In the light of the said principle, if the case on hand is considered, admittedly the equivalence committee has considered and approved the equivalent nature of the degree and certificate obtained by the candidates. Similarly, the Government Order issued by the Government also agrees with the validity of the degree and therefore, from the date the degree was obtained by the candidate, the right is accrued. While so, giving a different meaning that the validity of the degree will have prospective effect or retrospective effect is uncalled for. To make it even further clear, this Court mentioned at the risk of repetition that when both the equivalence committee and the Government Order issued by the State Government have not chosen to restrict the validity of the degree from the date of acquisition will stand to benefit the candidates and therefore, the question of introducing the prospective or retrospective ruling will tantamount to violent interpretation against the settled legal position. In this context, it is useful to refer to the judgment of the Apex Court in the case of B.S.Vadera vs. Union of India reported in AIR 1969 SC 118, wherein, the law is well declared that an accrued and acquired right of a person cannot be taken away stating that it will have only prospective effect.'



10.The above judgment is squarely applicable to the present facts and circumstances of the case and therefore, I am inclined to interfere with the impugned order.

11.Accordingly, the impugned order in O.Mu.No.66385/T5/2013, dated 30.12.2013 passed by the 2nd respondent is set aside and the respondents 2 and 3 are directed to award marks for the petitioner's qualification of Doctorate in Oceanography and for the teaching experience with the qualification of doctorate in Oceanography for 3 years (2010 to 2013) as per the prospectus for direct recruitment of Assistant Professors in Tamil Nadu Collegiate Educational Service for Government Arts & Science Colleges - 2012 and consequently appoint the petitioner in the post of Assistant Professor in Chemistry within a period of three months from the date of receipt of a copy of this order.

With the above direction, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

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To

- 1)The Principal Secretary,
State of Tamil Nadu,
Department of Collegiate Education,
Fort St.George, Chennai-09.
- 2)The Director of Collegiate Education,
Chennai-600 006.
- 3)The Secretary,
Teachers Recruitment Board,
EVK Sampath Maligai,
DPI Compound, College Road,
Chennai-06.

ORDER MADE IN
W.P(MD)No.1326 of 2014
DATED : 05.11.2020

VR(CO)

CS(18.11.2020) 5P 4C