



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2020

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.15503 of 2014

and

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

and

W.M.P. (MD) .No.17464 of 2016

R.Babu

... Petitioner

Vs.

1.The Chairman,
Teachers Recruitment Board,
4th Floor, E.V.K.Sampath Building,
College Road,
Chennai -6.

2.The Director,
Directorate of Distance Education,
Madurai Kamaraj University,
Madurai - 625 021.

3.The Controller of Examination,
Madurai Kamaraj University,
Madurai - 625 021.

... Respondents

(The respondents 2 and 3 are impleaded as per the order of this Court dated 24.03.2016 made in M.P.(MD).No.1 of 2015)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the respondent dated nil and quash the same and direct the respondent to appoint the petitioner (Roll No.13TE10201421) as B.T. Assistant (School Assistant) in History Major with effect from the date on which other candidates were appointed.

For petitioner : Mr.K.Muthumalai

For Respondents : Mr.V.R.Shanmuganathan
Special Government Pleader

ORDER

This writ petition has been filed by the petitioner questioning the communication dated nil of the first respondent and to direct the first respondent to appoint him (Roll No.13TE10201421) as B.T.



Assistant (School Assistant) in History with effect from the date on which other candidates were appointed.

2. The learned counsel for the petitioner submitted that in the year 1990, the petitioner joined in B.Sc. Mathematics three years course and completed Languages Part-I and Part-II in the first and second years. Then, finding it difficult to study mathematics, he applied for change of course from B.Sc. Mathematics to B.Sc. History. The respondents 2 and 3 accepted the said request and shifted the petitioner to B.A. History. As the petitioner has already completed the Languages Part-I and Part-II Tamil and English, he applied for exemption and the second respondent has granted exemption and directed the petitioner to appear for all the papers / subjects in 1 to 3 years degree course as mentioned in Column 3. Accordingly, the petitioner appeared for all the papers in the History Major ie., 8 papers as mentioned in column 3 and passed all the examinations and obtained B.A. History degree in the year 1995. Then, based on that U.G. Degree, the petitioner joined B.Ed. course in Bharathiyar University and completed B.Ed. degree course. Thereafter, the petitioner applied for the post of School Assistant by direct recruitment in Roll No.13TE10201421 and obtained eligible marks for appointment. The petitioner appeared for certificate verification on 07.05.2014, where the first respondent informed that the petitioner is not eligible for appointment. Hence, the petitioner has filed W.P.(MD).No.12069 of 2014 seeking a direction to the first respondent to appoint him in the post of School Assistant. But, subsequently, the petitioner withdrew the said writ petition with liberty to file a fresh writ petition with additional particulars. Thereafter, the petitioner has filed this writ petition.

3. The learned counsel for the petitioner would further submit that the petitioner has completed B.A. History course satisfying all the conditions and the second respondent has also issued a certificate dated 14.07.2016 to that effect. The first respondent has not served any order giving reasons for not selecting the petitioner. The first respondent has no reason to reject the appointment of the petitioner. In similar circumstances, in the case of N.Chitra Vs. State of Tamil Nadu, (W.P.(MD).No.19764 of 2014), dated 08.05.2017, this Court has granted the relief. Thus, he prayed to allow this writ petition.

4. The learned Special Government Pleader appearing for the respondents submitted that the petitioner has acquired B.A. History degree in one year duration and therefore, he is not eligible for appointment. Considering the same, the first respondent has not issued appointment order to the petitioner. Thus, he prayed to dismiss this writ petition.

5. Heard the learned counsel for both sides and perused the



6. Admittedly, it is not a case that the petitioner has obtained double degree ie. B.Sc. Mathematics degree and B.A. History degree. The petitioner's selection was treated as ineligible only on the ground that he has acquired B.A. (History), in one year duration. But, according to the petitioner, he has obtained exemption from writing the common subjects which have been passed while studying the course of B.Sc. Mathematics and wrote all the other subjects in the History Major and then obtained certificate of B.A. (History). The 2nd respondent has also issued a certificate dated 14.07.2016 to that effect. According to the 2nd respondent, the candidates, who have completed the three years of study with a particular Major of B.A. or the B.Sc. Mathematics but not passed the examination are not eligible to join the same course of study in this Institute, but they are eligible to joint the third year of study with a different major and accordingly, the petitioner completed the course of B.A. History.

7. When the similar issue arises for consideration, a learned Single Judge of this Court in the case of **N.Chitra Vs. the State of Tamil Nadu and others, in W.P.(MND).No.19764 of 2014, dated 08.05.2017** has held in paragraph Nos.13 to 16 as follows:

"13.The University (ie.,) Madurai Kamaraj University, after having considered the papers cleared by the petitioner at her first year studies in Bachelor of Science (Information Technology) had given exemption specifically on 26.03.2004 which has already been extracted hereinabove. The Part-I and Part-II papers which had been given exemption by the University is the decision of the University as both courses namely Bachelor of Science (Information Technology) and B.A. (Tamil) are conceived by the very same University. After having completed the said degree of B.A. (Tamil), the petitioner also applied for joining B.Ed. Course at an institution affiliated to Tamil Nadu Teachers Education University where also the petitioner's qualification was considered and accepted by the said University. Only thereafter, she was permitted to undergo the said B.Ed., course. After having successfully undergone the said course, the petitioner had been given a degree of Bachelor of Education by the Teachers Education University.

14. When two Universities functioning in the State of Tamil Nadu under respective legislation of the State issued degrees to the petitioner, the second respondent cannot take a different view as to the validity of the said degrees. Moreover, in the impugned communication dated 10.08.2014, only



the following has been mentioned as the reason for rejection of the petitioner's candidature:

"She has studied first year B.Sc. (IT) and then second and third year she has studied B.A. (Tamil)."

15. Except these remarks, the second respondent has not given any other reason as to why the qualifications acquired by the petitioner have not been accepted by the second respondent. If Clause 3-b of the notification issued by the second respondent is applied to the case of the petitioner, it can be easily found that the petitioner has acquired the qualification of B.A. (Tamil) under 10+2+3. Here, in this case, since the petitioner has completed 10th standard, +2 and thereafter the first year at an institution affiliated to the same University of course in a different course and subsequently, completed two more years for UG course and altogether she has completed three years for obtaining UG degree. She can also satisfy 10+2+3 pattern as required under Clause 3-b of the notification.

16. More over, in view of the said objection raised by the second respondent, the petitioner has also requested to the Madurai Kamaraj University ie. the third respondent, the Director, Directorate of Distance Education to clarify the position as to whether B.A. Tamil degree obtained by the petitioner through distance mode of education from the third respondent is a valid degree as there years Under Graduate degree for the purpose of public employment. The third respondent has given a certificate dated 16.07.2014 in reference No.MKU/DDE/UG/ 2014. "

8. The above decision is squarely applicable to this case as in this case also the appointment of the petitioner has not been considered only on the ground that he has acquired B.A. History in one year duration, but the petitioner has studied B.Sc. Mathematics course for two years and thereafter, with the approval of the University, shifted to B.A. (History), and after clearing all the subjects in the course of History, acquired the certificate of B.A. (History). The 2nd respondent has also issued a certificate in Reference No.005/DDE/2016, dated 14.07.2016 stating that the B.A. (History) degree obtained by the petitioner is a valid degree as three years Under Graduate degree for the purpose of public employment. Therefore, non selection of the petitioner on that ground cannot be sustained. The first respondent has not disputed the selection of the petitioner on any other grounds. It is seen that this Court had already granted an interim order in favour of the petitioner in this petition.



9. In view of the above, the impugned communication of the first respondent is set aside and the first respondent is directed to consider the B.A. (History) issued by the Madurai Kamaraj University and B.Ed. degree issued by the Bharathiyar University along with the clarificatory certificate dated 14.07.2016 issued by the 2nd respondent with the University seal and to appoint the petitioner in the post of B.T. Assistant (School Assistant) in History major with effect from the date on which the other candidates were appointed with continuity of service but without backwages. The above said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

10. This Writ Petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The Chairman,
Teachers Recruitment Board,
4th Floor, E.V.K.Sampath Building,
College Road,
Chennai -6.

2. The Director,
Directorate of Distance Education,
Madurai Kamaraj University,
Madurai - 625 021.

3. The Controller of Examination,
Madurai Kamaraj University,
Madurai - 625 021.

+1CC TO Mr.K.Muthumalai, Advocate, Sr.No.1110

W.P(MD)No.15503 of 2014
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