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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

WP NO.899 OF 2015

AND

MP NO.1 OF 2015

Dr.A.Duraisami

... Petitioner

.Vs.

1. State of Tamil Nadu
Rep. by its Secretary to Government
Higher Education Department
Secretariat, Chennai - 600 009.

2. The Chairman
Teachers Recruitment Board
Chennai - 600 006.

3. Director of Collegiate Education
Chennai - 600 006.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to award 14 marks for teaching experience to the petitioner bearing Regn. No.13 AP 1627810 and to appoint the petitioner as Assistant Professor (Commerce) under S.C. (General) Category for direct recruitment of Assistant Professors in Tamil Nadu Collegiate Educational Service for Government Arts & Science Colleges - 2012 and confer all the consequential benefits.

For Petitioner : Mr.P.Ganesan

For Respondents: Mr.C.Selvaraj
Government Advocate (Civil Side)

O R D E R

The writ petitioner seeks for a direction from this Court for counting the marks for his teaching experience from 1999, the year in which he obtained M.Phil., qualification, till the date of his selection.



2.The petitioner appeared for selection to the post of Assistant Professor before the second respondent. The second respondent / Teachers Recruitment Board earmarked 15 marks for teaching experience. In the present case, the petitioner joined service as Lecturer in Dr.Nalli Kuppusamy Arts College, Thanjavur, on 01.06.1998. However, he was not holding the prescribed qualification of M.Phil., till 1999. Therefore, the authorities have calculated the years of experience from 01.06.2000 to 28.04.2008. As such, he gained 7 years 9 months and 28 days of experience. Thereafter, he was appointed as an Assistant Professor with effect from 04.01.2009 in the very same college and he continued till 15.09.2009, acquiring 8 months and 10 days experience as Assistant Professor. Thereafter, he joined in Thanthai Hans Roever College, Perambalur, Perambalur District, as Assistant Professor, on 16.09.2009 and continued as such, till the date of interview. The experience certificate issued by the college, which is endorsed by the Joint Director of Collegiate Education, states that he possessed experience of 3 years 9 months and 15 days as Assistant Professor. Thus, he has 13 years of teaching experience with M.Phil., qualification and he is entitled to full marks for teaching experience. However, the Teachers Recruitment Board relied on the Corrigendum issued by them dated 02.08.2013, wherein his experience was counted from 14.06.2006 pursuant to an order passed by this Court in W.P.No.18186 of 2013.

3.I do not venture into the issue of counting the past services before 14.06.2006 as the Regulations issued by the University Grants Commission takes effect prospectively.

4.Be that as it may, the admitted fact is that as per the Corrigendum No.3 dated 02.08.2013, the Teachers Recruitment Board calculated the years of teaching experience from 01.06.2006 to 28.04.2013.

5.From the records, it is seen that the petitioner was continuously working in Dr.Nalli Kuppusamy Arts College, Thanjavur, from 01.06.1998 till 15.09.2009 and from 16.09.2009, till the date of selection, with Thanthai Hans Roever College, Perambalur, Perambalur District. Therefore, except for a short spell where his employment status is not clear, he has been continuously working. Therefore, the Teachers Recruitment Board should have calculated the years of experience from 01.06.2006 till 2013 continuously and allotted 14 marks.



6. Apart from the above, the University Grants Commission has substituted the qualification of M.Phil., from the year 1993 onwards, by its Notification F.No.1-1/2002(PS) Exemp. Dated 14.06.2006. When a new Regulation issued, that will take effect from the date of its issuance or date of its publication. But, substitution or amendment to a particular clause of the Official Memorandum, will take effect from the date of issuance of particular Official Memorandum.

7. In this case, the previous Official Memorandum was issued in the year 2000. Therefore, the teaching experience of the petitioner should have been calculated at least from 2000. Even as per this Regulation namely University Grants Commission (Minimum Qualifications Required For The Appointment and Career Advancement of Teachers in Universities and Institutions affiliated to it) (Second Amendment) Regulations, 2006, the petitioner is entitled to two marks from 2000 to 2013, except for the short spell between May 2008 and January 2009. Even otherwise also, as per the Notification of the University Grants Commission dated 14.06.2006, the petitioner is entitled to full marks for teaching experience.

8. Therefore, the calculation made by the Teachers Recruitment Board, pursuant to the Corrigendum No.3 dated 02.08.2013, is not correct and therefore, the action of the Teachers Recruitment Board in awarding 13 marks to the petitioner is liable to be set aside and accordingly, set aside. Consequently, a further direction is given to the second respondent Teachers Recruitment Board, to count the petitioner's teaching experience as seven years and award 14 marks for the same, as it was rightly calculated by them during certificate verification.

9. The learned counsel for the petitioner would take the support of the judgment of this Court in W.P.No.16021 of 2014 dated 30.06.2014. But in this case, we need not go into that aspect because the petitioner has more years of teaching experience than required. Further, the petitioner belongs to Scheduled Caste community and lot of posts of Assistant Professor remain unfilled under this category.

10. Therefore, a direction is given to the respondents to consider the petitioner for appointment in the backlog vacancies, as there is an order by this Court to keep a post vacant. In fact, this appointment will clear the vacancy and augment to the education of the students. The respondents are directed to consider the issue and pass appropriate orders



within a period of three months from the date of receipt of a copy of this order. No costs.

11. The writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

TK

To

1. The Secretary to Government
Higher Education Department
Secretariat, Chennai - 600 009.
2. The Chairman
Teachers Recruitment Board
Chennai - 600 006.
3. Director of Collegiate Education
Chennai - 600 006.

+1cc to M/s.C.S.Associates, Advocate, S.R.No.33145
+1cc to the Government Pleader, S.R.No.33516

WP.NO.899 OF 2015

SKY(CO)
CS/13/08/2021