



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 28.07.2021

Pronounced on : 22.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.17780 of 2018
and WMP.No.21054 of 2018

G.Kanmani

...Petitioner

Vs.

1.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.

2.Teachers Recruitment Board,
rep. by its Member Secretary,
DPI Campus, College Road,
Chennai-600 006.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Ceriorarified Mandamus, calling for the records of the second respondent herein in Na.Ka.No.4480/R5/2018/18.07.2018 and to quash the same and consequently direct the respondents to consider the petitioner as a person who studied in Tamil Medium (PSTM) for the purpose of appointment to the post of P.G. Assistant (Commerce) and accordingly direct the respondent to select and appoint the petitioner to the post of P.G. Assistant (Commerce) with attendant monetary and service benefits. (Prayer amended vide order dated 09.07.2019 made in WMP.No.3778/2019 in W.P.No.17780 of 2018 by VPNJ).

For Petitioner : Mrs.Dakshayani Reddy

For Respondents: Mr.K.V.Sajeev Kumar
Government Counsel

O R D E R

By consent of both the parties, this Writ Petition is heard through Video Conferencing on 28.07.2021.

2. Pursuant to the notification dated 09.05.2017, wherein the second respondent herein had invited applications for direct recruitment to the posts of PG Assistants/ Physical Education Directors Grade-I in the School Education and other Departments for the year 2016-17, the petitioner herein had participated in the selection process. Through the impugned order dated 18.07.2018, the petitioner's candidature was



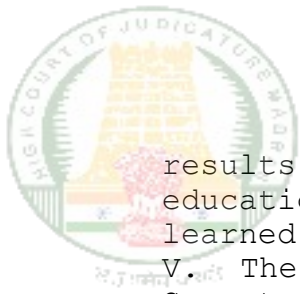
rejected, predominantly on the ground that the petitioner's claim for being considered under the "Persons Studied under Tamil Medium" (PSTM) category, was not feasible, since the PSTM certificate was issued to her only on 24.08.2017, which is after the date of notification i.e., on 09.05.2017. According to the second respondent, the candidates shall be required to possess all the relevant certificates, which are effective on the date of notification in order to qualify a candidate. This apart, the impugned order also makes a reference to the application made by the petitioner in the earlier recruitment process for the year 2014-15, wherein the petitioner had not claimed preference under PSTM category, thereby drawing an adverse inference. The respondents had placed reliance on Clause (4) of the notification r/w. Clause (3) of the general instructions to the candidates in the application and claim that inaccurate and incomplete applications are liable for rejection.

3. It is no doubt true that a candidate, aspiring for appointment in a selection process, is required to possess the minimum educational qualification apart from other requirements. In other words, the educational qualification obtained after the date of the notification for the selection process, would forthwith disqualify such a candidate.

4. In the present case, the petitioner possesses all the essential educational qualifications as on the date of the notification. The only disqualification cited by the second respondent is that her claim for priority under PSTM category cannot be considered since her PSTM certificate dated 24.08.2017 was obtained after the date of the notification i.e., on 09.05.2017.

5. The PSTM certificate is essentially a certificate verifying and authorizing that the candidate had undertaken Tamil as the medium of instruction in his/her academic course. Thus, if a candidate has undergone his or her Graduation or Post Graduation Course, with Tamil as the medium of instruction, such a fact is subsequently certified through the PSTM certificate. Effectively, the applicability and validity of such a certificate would relate back to the period during which the candidate had undertaken the course through Tamil medium.

6. In similar circumstances, when candidates who had relied upon degree certificates while participating in a selection process, which degree certificates were issued after the date of notification of the selection process and the recruitment agency had cited the degree certificate obtained after the date of notification as an embargo, an Hon'ble Division Bench of this Court in the case of The Director of Elementary Education, College Road, Chennai-6 and another Vs. K.Nedumaran passed in W.A.No.803 of 2013 dated 27.02.2015, had held that the passing of an examination would relate back to the date of examination and not the date of declaration of

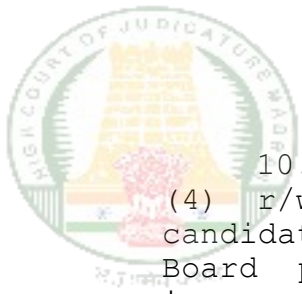


results and therefore valid for the purpose of determining the educational qualification. A similar view was also taken by a learned Single Judge of this Court in the case of S.Sadhasivam V. The Government of Tamil Nadu rep. by its Principal Secretary, School Education Department, Chennai-9 and Others passed in W.P.No.26464 of 2015 dated 30.08.2016. Even without reference to the aforesaid decisions of this Court, the logical reasoning that requires to be extended for determining the date of educational qualification, would be on the date when the candidate undertakes the examination, which is later evaluated and declared as 'successful'.

7. The ratio laid down in the aforesaid cases which gives effect to the date of passing of an examination as the criteria and not the subsequent date of the degree certificate, would squarely be applicable to the present case in hand also. An analogical inference on the aforesaid ratio requires to be adopted to all cases, where a candidate undertakes Tamil as the medium of instruction during the academic course and is later certified to that effect.

8. By applying the ratio laid down by the Hon'ble Division Bench in K.Nedumaran's case (supra), it requires to be held that the effective date on which the petitioner could claim as a PSTM would be on the date on which she had completed her Post Graduation course and not on the later date when her medium of instruction is certified. While that being so, the reasoning adopted by the respondents that she did not possess the PSTM certificate on the date of the notification, cannot be sustained.

9. The second respondent herein had also quoted the earlier application made by the petitioner in the year 2014-15, wherein she had not claimed priority under PSTM category and thereby have drawn an adverse inference. I am unable to endorse such a view. Just because the petitioner had not claimed priority in the year 2014-15 selection process, the second respondent can neither draw an adverse inference that she had not taken Tamil as medium of instruction in her PG course, nor can they rely upon such an occurrence as an impediment for claiming priority under PSTM category in the subsequent selection process. Ultimately, what is required to be seen is as to, whether the petitioner had, prior to the date of notification, undergone the minimum educational qualification prescribed in Tamil, as the medium of instruction only. When this Court has categorically held that the petitioner's medium of instruction as Tamil would relate back to the period between June 2005 to May 2007 when she has undergone her M.Com degree and had passed the same at that relevant point of time, which is much prior to the date of the PSTM certificate, the non-availment of the priority under PSTM category in the earlier selection process, becomes immaterial. Thus, the reasons assigned by the second respondent in this regard, cannot be sustained.



10. The impugned order also makes a reference to Clause (4) r/w. Clause (3) of the general instructions to the candidates for the purpose that since the Teachers Recruitment Board processes applications through On-line mode, all incorrect applications are liable to be rejected. The Hon'ble Supreme Court in the case of Dolly Chhanda Vs. Chairman, JEE and others reported in 2005 (9) SCC 779, had held that every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature. Likewise, a learned Single Judge of this Court in the case of K.Ganapathy Vs. Member Secretary, TNPSC, Chennai passed in W.P.No.9289 of 2020, dated 05.02.2001, had also held that a minor error inadvertently committed by a candidate, should not deprive his valuable right of gaining employment in Public Service. The same view was reiterated in the case of M.Abiramadevi V. The Secretary, TNPSC, Chennai and another passed in W.P.No.4700 of 2020 dated 05.02.2021.

11. In the light of the observations made by this Court, the non uploading of PSTM certificate by the petitioner, owing to the belated issuance, can be termed to be a "minor infraction" and by laying down the ratio laid down by the Hon'ble Supreme Court in Dolly Chhanda's (supra) and by this Court in K.Ganapathy and M.Abiramadevi's cases (supra), the minor infractions of the clauses in the notification, could be condoned.

12. It would be pertinent to point out here that pending the Writ Petition, this Court had granted an interim order on 13.07.2018, by which one post of PG Assistant (Commerce) in the selection process was directed to be kept vacant. By implementing such interim orders, the respondents have also kept such a post vacant.

13. For all the reasons stated above, the impugned order dated 18.07.2018 passed by the second respondent herein, is quashed. Consequently, there shall be a direction to the second respondent herein to consider the petitioner's candidature under PSTM category and include her candidature in the selection list for appointment to the post of PG Assistant (Commerce), if she is otherwise qualified, within a period of four weeks from the date of receipt of a copy of this order. On such inclusion of her name, the first respondent herein shall issue appropriate appointment orders, atleast within a period of two weeks from the date of inclusion of the petitioner's name in the selection list.

14. The Writ Petition stands allowed accordingly. Consequently, connected Miscellaneous Petition is closed. There shall be no orders as to costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

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Sub Assistant Registrar



1.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.

2.The Member Secretary,
Teachers Recruitment Board,
DPI Campus, College Road,
Chennai-600 006.

+1cc to Mrs.Dakshayani Reddy, Advocate SR.No. 49327

W.P.No.17780 of 2018
and
WMP.No.21054 of 2018

AJS (CO)
A.SK(24.09.2021)