

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Monday, the Twenty Sixth day of April Two Thousand Twenty One

PRESENT

THE HON`BLE MR JUSTICE V.BHARATHIDASAN

and

THE HON`BLE MR JUSTICE M.DHANDAPANI

and

THE HON`BLE MS.JUSTICE P.T.ASHA

WP.Nos.2807 of 2014

WP.No.16871 of 2020 and WMP.No.20930 of 2020

WP.No.25698 of 2017 and WMP.No.27170 of 2017

R.CHITRA

... PETITIONER in WP No.2807 of 2014

S.RAMYA

... PETITIONER in WP No.16871 of 2020

MRS.J.SUDHA

... PETITIONER in WP No.25698 of 2017

Vs

1 MEMBER SECRETARY ... RESPONDENT in WP No.2807 of 2014
GOVERNMENT OF TAMILNADU TEACHERS
RECRUITMENT BOARD 4TH FLOOR EVK SAMPATH
MALIGAI DPI COMPOUND COLLEGE ROAD
CHENNAI- 6

2 TH UNIVERSITY GRANTS COMMISSION(UGC)
REP BY ITS SECRETARY BAHADUR SHAH
ZAFAR MARG NEW DELHI-110 002

R2-SUO MOTU IMPEADED AS PER COURT ORDER DT.08.10.2018
BY TSSJ, VBSJ AND PTAJ IN WP.2807/14

1 THE TEACHERS RECRUITMENT BOARD ... RESPONDENT in WP No.25698/17
REP BY ITS CHAIRMAN DPI
CAMPUS CHENNAI-06

2 TAMIL NADU TEACHER
EDUCATION UNIVERSITY REP BY ITS REGISTRAR
KAMARAJAR SALAI CHENNAI-05

3 UNIVERSITY GRANTS COMMISSION
REP BY ITS CHAIRMAN BAHADUR SHAH ZAFAR MARG
NEW DELHI-110 002

4 THE DIRECTOR OF SCHOOL
EDUCATION DPI CAMPUS CHENNAI-06

1 THE STATE OF TAMIL NADU ... RESPONDENT in WP No.16871/2020
REP BY THE PRINCIPAL SECRETARY EDUCATION
DEPARTMENT SECRETARIAT CHENNAI 09

2 THE TEACHERS RECRUITMENT BOARD,
REP BY THE MEMBER SECRETARY 4TH FLOOR,
EVK SAMPATH MAALIGAI DPI CAMPUS COLLEGE ROAD
CHENNAI 600 006

3 THE DIRECTOR OF SCHOOL EDUCATION,
COLLEGE ROAD CHENNAI 600 006

Writ Petitions and writ miscellaneous petition filed under Article 226 of the Constitution of India praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to issue a writ of mandamus

1 WP No.2807 of 2014
to direct the respondent to appoint the petitioner to the post of Post Graduate Assistant (Botany) category in Tamilnadu Higher Secondary Educational Service, in pursuance of the selection process conducted by the respondent as per the recruitment Notification/ Advertisement No.02/2013 dated 9.5.2013 within the time stipulated by this Honorable court

2 WP No.16871 of 2020
Calling for the records in Ineligible list after CV on the file of the 2nd respondent dated 20.11.2019 for promotion to the post of PG Assistant in English and quash the same as illegal, incompetent and without jurisdiction and further direct the respondents to include the name of the petitioner on the basis of the marks obtained by her in the examination without reference to the simultaneous course with effect from the date of promotion given to the candidate who scored next lesser marks to her with all service and monetary benefits

3 WP No.25698 of 2017
issue a writ of mandamus to calling for the records of the proceedings of the 1st respondent in so far as the non-selection of the petitioner having Registration Number 17PG24020389 published in the website of the 1st respondent and quash the same consequently direct the 1st and 4th respondents to appoint the petitioner as PG Assistant in English in any one of the Government Higher Secondary Schools under the control of the 4th respondent without reference to simultaneous degrees

4 WMP No.27170 of 2017

to direct the 1st and 4th respondents to keep one post of PG Assistant in English in any one of the Government Higher Secondary Schools under the control of the 4th respondent

4 WMP No.27170 of 2017

To grant ad interim direction directing the 2nd respondent to keep one post of PG Assistant in English vacant for the petitioner

Order : These petitions coming on this day for hearing upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.B.VIJAY, Advocate for the petitioner in WP.No.2807/2014 and of M.RAJAMANI, Advocate for the petitioner in WP.No.16871/2020 and of M/S.K.ELANGO, Advocate for the petitioner in WP.No.25698/2017 and of MRS.NARMADHA SAMPATH, Additional Advocate General Assisted by M/S.C.MUNUSAMY, Special Government Pleader for the 1st respondent in WP.No.2807/2014 and 2 & 4 respondents in WP.No.25698/2017 and of MR.R.RABU MANOHAR, Senior Panel Counsel for the 2nd respondent in WP.No.2807/2014 and of M/S.V.JAYAPRAKASH NARAYANAN, Special Government Pleader for the 1st respondent in WP.No.25698/2017 and of the Court made the following order:-

The question that has been referred to this Full Bench for answer is as follows:-

"Whether two degrees (dual degrees) obtained simultaneously during the same academic year, can be considered for employment purpose, particularly, for being selected to a post under The Tamil Nadu Higher Secondary Education Service?"

2. Divergent views on the subject having been taken by two different Division Benches of this court forms the genesis for reference of the question to the larger bench. Let us now go into the factual background which led to the reference.

(i) One S.Jagadeeswari's candidature to the post of Post Graduate Assistant was not favourably considered by the Teacher's Recruitment Board on the ground that she had pursued her B.Ed., Degree simultaneously while pursuing B.A. in English Literature. Therefore, aggrieved by the rejection of her candidature, she had approached this court by way of a writ petition in W.P.No.30299 of 2012 which was dismissed by a learned single Judge on 02.04.2013 and on appeal, a Division Bench of this court by an order dated 07.01.2014 in W.A.No.845 of 2013, dismissed the writ appeal, holding that two degrees obtained simultaneous in the same academic year, one through open university and another in the regular stream was not recognized by the University of Madras, therefore, the petitioner could not seek a direction to the respondents to select her and appoint to the post of P.G. Assistant. The concluding portions of the judgement of the Division Bench read as follows:-

"8. When similar issue was raised before the the Madras University and a clarification was sought for, it appears that through communication dated 02.01.2011, the Registrar of Madras University had informed the Chairman of the Teachers Recruitment Board that candidates who had obtained under Graduate Degree in a subject and B.Ed., Degree in the same calendar year by undergoing one of them through the Open University and another in the regular stream, had not been recognized. Thus, the very degree obtained by the appellant in B.A.(English) or B.Ed., in the same academic year having not been recognized so far by the Madras University, the appellant cannot seek for a direction to the respondents to select her and appoint to the post of P.G. Assistant (English).

9. No doubt, the appellant relied on certain recommendations made by the Expert Committee of the University Grants Commission held on 12.10.2012. Needless to say that those decisions taken by such committee at the best may have only a recommendatory value, without having any statutory force. Therefore, we find that such recommendations made by the Expert Committee of the University Grants Commission unless culminated in the form of statute, the same cannot be relied on by the petitioner in support of her prayer.

10. The appellant, admittedly, filed only a writ of mandamus seeking for a simple direction to the respondents to select and appoint her to the post without challenging any of the proceedings as discussed above, which are prohibiting appointment of candidates with such qualification. The learned single Judge considered all those aspects and rightly rejected the writ petition. We find no grounds to interfere with such decision of the learned single Judge. Accordingly, the writ appeal is dismissed. No costs."

(ii) Similarly, one L.Kavitha's candidature to the post of Post Graduate Assistant was rejected on the ground that she had obtained both B.A. and B.Ed., degrees simultaneously from

different universities and, therefore, the same could not be accepted. Challenging the same, she had filed a writ petition in W.P.No.6556 of 2011 and a learned single Judge had allowed the writ petition in favour of the petitioner therein, which led to the filing of an appeal in W.A.No.1098 of 2012 by the State. A Division Bench of this court, by order dated 24.06.2016, dismissed the Writ Appeal and while rejecting the contention that two degrees obtained simultaneously in the same academic year have not been recognized by the University of Madras, the Division Bench has held that there has been no strict rules prohibiting the students to pursue two degree programs simultaneously in the same academic year. The relevant portion of the judgement reads as follows:-

"7. As adverted to earlier, the specific relief sought in the Writ Petition is to recognize the degrees, viz., B.A., and B.Ed., obtained by the petitioner simultaneously from Periyar University as well as Annamalai University. Of course, it is true that B.A. degree has been obtained by the petitioner/respondent through correspondence course in Annamalai University.

8. In fact, this Court has perused the reply given by the Madras University, wherein it has been simply stated that so far two degrees obtained in the same year have not been recognized. In fact, the Madras University has not specifically stated any Rule, which prohibits recognition.

9. Considering the fact that Madras University has given only nebulous answer with regard to recognition and it has simply stated to the effect that so far these types of degrees have not been recognized, this Court is of the view that necessary direction can be given to the respondents 2 and 3."

3. Subsequently, when one R.Chitra moved a writ petition in W.P.No.2807 of 2014 (now under reference) seeking a writ of mandamus directing the respondent-State to appoint her as Post Graduate Assistant (Botany) in Tamil Nadu Higher Secondary Educational Service, a learned single Judge of this Court, considering the divergent views taken by two different Division Benches of this Court, by order dated 21.09.2016, thought it fit to place the matter before The Hon'ble Chief Justice to constitute a larger Bench to decide the issue. The relevant portion of the order reads as follows:-

7. In such circumstances, in view of the fact that contrary views had been expressed by two Division Benches of this Court, in W.A.No.845 of 2013 and W.A.No.1098 of 2012,

this Court finds it appropriate to direct the Registry to place the matter before the Hon'ble Chief Justice to refer the matter to a Larger Bench, to decide the issue raised in the writ petition, relating to the qualification of the candidates, who have obtained dual degrees, during the same academic year, for being selected to the post concerned, under the Tamil Nadu Higher Secondary Educational Service.

Therefore, the instant reference. Writ Petitions relating to the same issue have been posted before us and all of them have been heard together.

4. We have heard Mr.B.Vijay, learned counsel appearing for one of the writ petitioners in W.P.No.2807 of 2014, Mr.K.Elango, learned counsel appearing for the petitioner in W.P.No.25698 of 2017, Mr.M.Rajamani, learned counsel appearing for the petitioner in W.P.No.16871 of 2020, Mrs.Narmadha Sampath, learned Additional Advocate General appearing for the State and Mr.R.Rabu Manohar, learned Senior Panel Counsel appearing for the University Grants Commission and also perused the records carefully.

5. Mr.B.Vijay, the learned counsel for one of the petitioners would submit that as of now, there is no specific rule prohibiting the grant of simultaneous degrees in the same academic year; one through a regular stream and the other through distance education mode. In the absence of any such prohibition, the employer cannot refuse to accept those degrees. Both the degrees were conferred by the recognized universities and when that be so, the employer is not competent to derecognize the degree conferred by the universities. When there was no specific prohibition in the employment notification to exclude the simultaneous degrees, the State/Recruiting Agency has no power to exclude such degrees obtained by the petitioner from being considered to a particular post.

6. The learned counsel would further submit that even if the State wants to delete or remove such qualifications from the eligible criteria, they have to make a specific provision in the service rules. In the absence of any such rules, the employer cannot arbitrarily exclude such degrees from the purview of the eligibility criteria.

7. The learned counsel would lastly submit that the law is now well settled in that degrees obtained through distance education mode or under open university system must be treated on par with the degrees obtained through formal mode of education as the degrees are issued as per the standard prescribed by the University Grants Commission. The learned counsel in support of submission place reliance heavily upon a judgement of the Hon'ble Supreme Court in **Annamalai University v. Secretary to Government, Information and Tourism Department**, (2009) 4 SCC 590.

8. The respective learned counsels appearing for the petitioner(s) in the other writ petitions would also advance their arguments on the same lines as that of Mr.B.Vijay.

9. Per contra, Mrs.Narmadha Sampath, the learned Additional Advocate General appearing for the State would submit that the Full Bench is required to answer the issue as to whether a candidate, who has obtained dual degrees simultaneously, during the same academic year can be considered for employment. The reference is not for the purpose of deciding whether such degrees are valid or not.

10. The learned Additional Advocate General would further submit that it is the prerogative of the employer to prescribe the requisite qualification for appointment to a particular post and in exercise of this prerogative it is for the employer to accept or discard any degree though the same is recognized by the concerned Educational authorities. The employer cannot be prevented from prescribing a particular qualification for appointment to a particular post. The learned Additional Advocate General would also take us through the various Government Orders and service rules wherein requisite qualifications and the mode or pattern of courses have been prescribed for different categories of posts. Unless the candidates satisfy the requisite qualifications under the service rules and the employment notifications, they are not entitled to apply for the post. The learned Additional Advocate General would also place reliance upon a number of judgements in support of her contentions to which reference would be made at appropriate stage.

11. Mr.B.Rabu Manohar, the learned Senior Panel Counsel appearing for the University Grants Commission (for the sake of brevity referred to as "UGC") would submit that, earlier, the UGC had allowed the students to pursue dual degree courses. However, recently, after consulting with the educational bodies and on considering various representations received from the general public as well as educational agencies, this earlier view of the UGC was reviewed by an expert committee. Now, the UGC has taken a decision to allow the students to pursue dual degree courses simultaneously, one through a regular stream as full time course and the other through distance education mode or open university or on-line in the same academic year. However, the second degree should be of the same level or of the lower level of the full time academic program. According to the learned senior panel counsel, the decision of the UGC has been submitted for the concurrence of the Ministry of Education, Government of India, once the approval is granted, UGC would issue appropriate notification to that effect. The learned senior panel counsel also submitted two affidavits of the UGC in this regard.

12. We have considered the rival submissions carefully.

13. The issue as to whether the students can be permitted to pursue dual degree courses simultaneously in the same academic year has been vexed with the UGC for several years. It could be seen from the affidavits filed by the UGC that in the year 2012, UGC has constituted an expert committee to look into the issue and the committee upon soliciting the views of the universities from various States, made a positive recommendation for allowing simultaneous degree programmes. The Full Commission of the UGC had also approved the same. Thereafter, the UGC had once again sought views from various statutory councils and upon considering the same, unanimously rejected the concept of permitting the students to pursue two or more degree courses simultaneously during the same academic year. The issue was taken up for discussion by the Full Commission of UGC in the year 2016 and the Full Commission had decided not to allow the students to pursue a dual degree course simultaneously in the same academic year. When the decision of the Full Commission was placed before the Ministry of Human Resource Development, Government of India for its approval, by way of a communication dated 15.11.2016, the Ministry is however not in favour of this decision. Therefore, the UGC had once again placed the issue before another expert committee headed by Shri.Bushan Patwardhan, Vice Chairman of UGC in the year 2019. The expert committee after having considered the issue has sent its recommendation on 17.06.2019 favoring simultaneous degree courses.

14. The above said recommendation was approved by the Full Commission of UGC in its 546th Meeting held on 14.05.2020. Thereafter, the recommendation was placed before the Ministry of Human Resource Development and the matter is now pending for concurrence of the Ministry concerned. It is also stated that until the concurrence is received from the Ministry, no formal notification can be issued by the UGC.

15. It is also the stand of the UGC that in view of The New Education Policy, 2020, the UGC is bound to review the entire mechanism for the conduct of two degree courses. Allowing the students to pursue more than one degree simultaneously will also be reviewed in the light of the recommendations made in the New Education Policy.

16. Thus, it is clear that as of now, pursuing dual degree courses, one through regular mode and the other through distance education or otherwise than the regular stream, during the same academic year has not been recognized by the UGC, in other words, such pattern of degrees are not approved under the UGC regulations.

17. The University Grants Commission Act (in short, "the UGC Act") was enacted in the year 1956 to make provision for the co-ordination and determination of standards in Universities and for that purpose, in terms of Section 4 of The UGC Act, "University Grants Commission" (UGC) was established by the Central Government. The powers and functions of the Commission have been laid down in Chapter III thereof. Section 22 of the UGC Act provides that the right to confer degrees shall be exercised only by the universities and "**Degree**" has been defined in sub-Section (3) as under:

"(3) For the purposes of this section, 'degree' means any such degree as may, with the previous approval of the Central Government, be specified in this behalf by the Commission by notification in the official Gazette. "

18. Section 26 of the UGC Act, empowers the UGC to make regulations for various purposes. Sub-section (1)(e) thereof empowers the UGC to make regulations for fixing qualification that should ordinarily be required of any person to be appointed to the teaching staff of the University, having regard to the branch of education in which he is expected to give instruction. Sub-section (1) (f) of Section 26 of the Act empowers the UGC to make regulations in respect of minimum standards of education for the grant of any degree by any University. The relevant portions of the above said provisions are extracted hereunder:-

"26. (1) The Commission may, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder-

- (a)
- (b)
- (c)
- (d)

(e) defining the qualifications that should ordinarily be required of any person to be appointed to the teaching staff of the University, having regard to the branch of education in which he is expected to give instruction;

(f) defining the minimum standards of instruction for the grant of any degree by any University;"

19. Mean while, in this year 1985, The Indira Gandhi National Open University Act was enacted by the Central Government to establish and incorporate an Open University at the national level for the introduction and promotion of open university and distance education systems in the educational pattern of the country and for the co-ordination and determination of standards in such systems. The objects of this university would read as follows:-

"The objects of the University shall be to advance and disseminate learning and knowledge by a diversity of means, including the use of any communication technology, to provide opportunities for higher education to a larger segment of the population and to promote the educational well being of the community generally, to encourage the Open University and distance education systems in the educational pattern of the country and to coordinate and determine the standards in such systems, and the University shall, in organizing its activities, have due regard to the objects specified in the first Schedule."

20. Now, it is the settled law that even after advent of the Indira Gandhi National Open University Act, the provisions of the UGC Act are binding on all the Universities, both conventional universities and open universities and the regulations made in terms of the power conferred under the UGC Act will be applicable to both conventional universities as well as open universities. Insofar as laying down qualifications for the post of teacher are concerned, regulations framed under the UGC Act alone are applicable and binding even on open universities. The Hon'ble Supreme Court in **Annamalai University v. Information & Tourism Deptt.**, (2009) 4 SCC 590 has held as follows:-

42. The provisions of the UGC Act are binding on all universities whether conventional or open. Its powers are very broad. The Regulations framed by it in terms of clauses (e), (f), (g) and (h) of sub-section (1) of Section 26 are of wide amplitude. They apply equally to open universities as also to formal conventional universities. In the matter of higher education, it is necessary to maintain minimum standards of instructions. Such minimum standards of instructions are required to be defined by UGC. The standards and the coordination of work or facilities in universities must be maintained and for that purpose required to be regulated. The powers of UGC under Sections 26(1)(f) and 26(1)(g) are very broad in nature. Subordinate legislation as is well known when validly made becomes part of the Act. We have noticed hereinbefore that the functions of UGC are all-pervasive in respect of the matters specified in clause (d) of sub-section (1) of Section 12-A and clauses (a) and (c) of sub-section (2) thereof.

43. Indisputably, as has been contended by the learned counsel for the appellant as also the learned Solicitor General that the Open University Act was enacted to achieve a specific object. It opens new vistas for imparting education in a novel manner. Students do not have to attend classes regularly. They have wide options with regard to the choice of subjects but the same, in our opinion, would not mean that despite a parliamentary Act having been enacted to give effect to the constitutional mandate contained in Entry 66 of List I of the Seventh Schedule to the Constitution of India, activities and functions of the private universities and open universities would be wholly unregulated.

44. It has not been denied or disputed before us that in the matter of laying down qualification of the teachers, running of the University and the matters provided for under the UGC Act (*sic* the Regulations) are applicable and binding on all concerned. The Regulations framed, as noticed hereinbefore, clearly aimed at the open universities. When the regulations are part of the statute, it is difficult to comprehend as to how the same which operate in a different field would be *ultra vires* the parliamentary Act. IGNOU has not made any regulation; it has not made any ordinance. It is guided by the Regulations framed by UGC. The validity of the provisions of the Regulations has not been questioned either by IGNOU or by the appellant University. From a letter dated 5-5-2004 issued by Mr H.P. Dikshit, who was not only the Vice-Chancellor but also the Chairman of DEC of IGNOU it is evident that the appellant University has violated the mandatory provisions of the Regulations."

21. Coming to the issue of recognition of simultaneous degrees obtained in the same academic year, indisputably, most of the students obtain their second degree through distance education mode and the students are not permitted to undergo a second degree programme in formal mode in the same academic year. In such circumstances, unless simultaneous degrees obtained are recognized by the UGC with the prior approval of the Central Government, such degrees cannot be considered as recognized degree as per Section 22 of the UGC Act. As stated *supra*, as of now, the UGC has not recognized pursuing dual degree courses simultaneously during the same academic year. Therefore, till such time as dual degree courses are recognized by the UGC, such degrees conferred by the universities cannot be construed as degrees recognized as per the provisions of Section 22 of the UGC Act.

22. It is also pertinent to mention here, that in the year 1993, the Central Government enacted The National Council for Teacher Education Act, 1993 (in short, "NCTE Act") for providing the establishment of a National Council for Teacher Education with a view to achieving planned and co-ordinated development of the teacher education system throughout the country and for the regulation and proper maintenance of norms and standards in the teacher education system and also for the matters connected therewith. In terms of Section 3 of the NCTE Act, a National Council for Teachers Education has been established. Sub-section (2) (d)(i) of Section 32 of the NCTE Act empowers the council to make regulations for fixing norms and guidelines and standards in respect of the minimum qualifications for a person to be employed as a teacher and sub-section 2(d)(ii) empowers the Council to make regulations in respect of the specified category of courses or training in teacher education. In exercise of the power conferred under the NCTE Act, the Regulations has been framed called "The National Council For Teacher Education (Recognition Norms and Procedure) Regulations, 2014. Under Regulation No.9, as many as 15 Teacher Education Programmes have been specified in Appendix 1 to 15.

23. On a cursory look at the curriculum, programme implementation and assessment fixed for each programme, it could be seen that apart from theory classes, students should under attend practical training like school engagement (school internship) and other practical trainings in schools. For example, the Bachelor of Education Programme (B.Ed.) comprises of three broad curricular areas, (i) Perspectives in Education, (ii) Curriculum and Pedagogic Studies, and (3) Engagement with the Field. That apart, the students should also undergo school internship and actively engage in teaching for 16 weeks in the final year of the course. Likewise, for Master of Education (M.Ed.,) also similar norms and standards have been fixed under the regulations. It is doubtful, whether a student undergoing teacher education programme through distance education mode would be able to undergo such training effectively as prescribed in the regulations.

24. The teaching profession is not like any other profession and the teacher's service cannot be compared with any other ministerial service. Teachers are the cornerstone of society as they are the real nation builders. Teachers are the people who mould the children and inculcate values to children to become better citizens and leaders of tomorrow. A teacher is the role model of his student and should therefore, be well equipped to deal with his students. A teacher should be able to assess the strength and weakness of the students and provide proper guidance and training, they should be the source of inspiration and motivation to the students and should have the compassion, passion for learning and understanding. To become a better teacher, proper training is required. A better teacher alone can make a better student and an ill trained teacher will cause havoc to the system.

A student doing teacher education programme in the distance education mode may not have the hands-on experience like his counterpart undergoing a course in the regular stream.

25. The Hon'ble Supreme Court in ***Andhra Kesari Educational Society v. Director of School Education***, (1989) 1 SCC 392 : AIR 1989 SC 183 has held as follows:-

"20. Before parting with the case, we should like to add a word more. Though teaching is the last choice in the job market, the role of teachers is central to all processes of formal education. The teacher alone could bring out the skills and intellectual capabilities of students. He is the "engine" of the educational system. He is a principal instrument in awakening the child to cultural values. He needs to be endowed and energised with needed potential to deliver enlightened service expected of him. His quality should be such as would inspire and motivate into action the benefiter. He must keep himself abreast of everchanging conditions. He is not to perform in a wooden and unimaginative way. He must eliminate fissiparous tendencies and attitudes and infuse nobler and national ideas in younger minds. His involvement in national integration is more important, indeed indispensable. It is, therefore, needless to state that teachers should be subjected to rigorous training with rigid scrutiny of efficiency. It has greater relevance to the needs of the day. The ill-trained or sub-standard teachers would be detrimental to our educational system; if not a punishment on our children. The Government and the University must, therefore, take care to see that inadequacy in the training of teachers is not compounded by any extraneous consideration.

26. In another judgement in ***N.M. Nageshwaramma v. State of A.P.***, 1986 Supp SCC 166 : AIR 1986 SC 1186 the Hon'ble Supreme Court has emphasized that proper training for the teacher is essential for a teaching post. The relevant portion of the judgement reads as follows:-

"3. The Teachers Training Institutes are meant to teach children of impressionable age and we cannot let loose on the innocent and unwary children, teachers who have not received proper and adequate training. True they will be required to pass the examination but that may not be enough. Training for a certain minimum period in a properly organized and equipped Training

Institute is probably essential before a teacher may be duly launched.
"

27. That apart, prescribing a particular educational qualification to a particular post is a policy matter within the domain and prerogative of the employer. The employer may prescribe the requisite educational qualification taking into consideration various circumstances including the nature of job and the essential requirements for the efficient discharge of the duties attached to a particular post. It is for the State to decide whether a particular qualification could be regarded as equivalent and the court cannot sit in the armchair of the policy maker.

28. So far as Educational Services in Tamil Nadu, there are number of statutory rules framed viz., Special Rules for The Tamil Nadu Elementary Educational Subordinate Service; Special Rules for the Tamil Nadu Higher Secondary Educational Service; Tamil Nadu Municipal Educational Service Rules; Special Rules for the Tamil Nadu School Educational Subordinate Service (Municipal and Township Schools), etc. In all those rules, the Government has fixed qualifications for appointment to various posts. In all the statutory rules, in respect of educational qualifications, reference have also been made about recognized degree and a degree of equivalent standard, besides a diploma or degree in teacher education". Admittedly, a simultaneous degree obtained in the same academic year has not been regarded as equivalent degree in any of the service rules. In such circumstances, unless and until, such degree obtained in the same academic year is prescribed as qualification in the relevant service rules, it is open to the authorities to refuse to recognize such degrees, in other words, unless and otherwise, statutory rules provides for it, a presumption of equivalence cannot be construed.

29. In **Zahoor Ahmad Rather v. Imtiyaz Ahmad, 2019 (2) SCC 404**, the Hon'ble Supreme Court at paras 26 and 27 has held as follows:-

"26. We are in respectful agreement with the interpretation which has been placed on the judgment in *Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664]* in the subsequent decision in *Anita [State of Punjab v. Anita, (2015) 2 SCC 170 : (2015) 1 SCC (L&S) 329]*. The decision in *Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664]* turned on the provisions of Rule 10(a)(ii). Absent such a rule, it would not be permissible to draw an inference that a higher qualification necessarily presupposes the acquisition of another, albeit lower, qualification. The prescription of qualifications for a post is a matter of recruitment policy. The State as the

employer is entitled to prescribe the qualifications as a condition of eligibility. It is no part of the role or function of judicial review to expand upon the ambit of the prescribed qualifications. Similarly, equivalence of a qualification is not a matter which can be determined in exercise of the power of judicial review. Whether a particular qualification should or should not be regarded as equivalent is a matter for the State, as the recruiting authority, to determine. The decision in *Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664]* turned on a specific statutory rule under which the holding of a higher qualification could presuppose the acquisition of a lower qualification. The absence of such a rule in the present case makes a crucial difference to the ultimate outcome. In this view of the matter, the Division Bench [*Imtiyaz Ahmad v. Zahoor Ahmad Rather, LPA (SW) No. 135 of 2017, decided on 12-10-2017 (J&K)*] of the High Court was justified in reversing the judgment [*Zahoor Ahmad Rather v. State of J&K, 2017 SCC OnLine J&K 936*] of the learned Single Judge and in coming to the conclusion that the appellants did not meet the prescribed qualifications. We find no error in the decision [*Imtiyaz Ahmad v. Zahoor Ahmad Rather, LPA (SW) No. 135 of 2017, decided on 12-10-2017 (J&K)*] of the Division Bench.

27. While prescribing the qualifications for a post, the State, as employer, may legitimately bear in mind several features including the nature of the job, the aptitudes requisite for the efficient discharge of duties, the functionality of a qualification and the content of the course of studies which leads up to the acquisition of a qualification. The State is entrusted with the authority to assess the needs of its public services. Exigencies of administration, it is trite law, fall within the domain of administrative decision-making. The State as a public employer may well take into account social perspectives that require the creation of job opportunities across the societal structure. All these are essentially matters of policy. Judicial review must tread warily. That is why the decision in *Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664]* must be understood in the context of a specific statutory rule under which the holding of a higher qualification which presupposes the acquisition of a lower qualification was

considered to be sufficient for the post. It was in the context of specific rule that the decision in *Jyoti K.K.[Jyoti K.K.v.Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664]* turned."

30. Now, coming to the issue under reference, the Division Bench in **B.Jagadeeswari v. The Chairman, Teachers Recruitment Board, Chennai [W.A.No.845 of 2013 dated 07.01.2014]** has rightly held that unless the dual degrees obtained simultaneously in the same academic year is recognized, a candidate cannot seek for a direction to the appointing authority to select and appoint him/her to a particular post. Incidentally, the Division Bench has also held that unless a specific direction is issued by the UGC in the form of statutory notification, mere recommendation of the UGC approving the proposal to permit the students to pursue two degrees simultaneously in the same academic year have only a recommendatory value. As stated earlier, unless and until, the UGC recognizes such degree courses, there is no obligation on the part of the university or the employers / recruiting agencies to recognize such degree courses in the absence of any such rules in this regard. Thus, we are in agreement with the law laid down by the Division Bench in **B.Jagadeeswari v. The Chairman, Teachers Recruitment Board, Chennai [W.A.No.845 of 2013 dated 07.01.2014]**. For the reasons already discussed by us hereinabove, we are not in agreement with the judgement rendered by the latter Division Bench in *The Secretary, School Education Department, Fort St. George, Chennai and 2 others v. L.Kavitha [W.A.No.1098 of 2012 dated 24.06.2016]* as it did not lay down the correct law.

31. This Reference is answered accordingly. The Registry is directed to list the writ petitions before the concerned learned Judge dealing with the subject matter as per roster and it is for the learned Judge to decide the issue(s) involved in the writ petitions on its own merits and in accordance with law.

-sd/-

26/04/2021

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 MEMBER SECRETARY
GOVERNMENT OF TAMILNADU, TEACHERS
RECRUITMENT BOARD, 4TH FLOOR, EVK SAMPATH
MALIGAI, DPI COMPOUND, COLLEGE ROAD, CHENNAI-6

2 THE SECRETARY,
THE UNIVERSITY GRANTS COMMISSION(UGC),
BAHADUR SHAH ZAFAR MARG, NEW DELHI-110 002

3 THE CHAIRMAN
THE TEACHERS RECRUITMENT BOARD
DPI CAMPUS CHENNAI-06

4 THE REGISTRAR
TAMIL NADU TEACHER EDUCATION UNIVERSITY
KAMARAJAR SALAI CHENNAI-05

5 THE DIRECTOR OF SCHOOL
EDUCATION DPI CAMPUS CHENNAI-06

6 THE PRINCIPAL SECRETARY
GOVERNMENT OF TAMIL NADU EDUCATION
DEPARTMENT SECRETARIAT CHENNAI 09

Order
in

WP.Nos.2807 of 2014

WP.No.16871 of 2020 and WMP.No.20930 of 2020

WP.No.25698 of 2017 and WMP.No.27170 of 2017

Date :26/04/2021

From 26.2.2001 the Registry is issuing certified
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KP(03/05/2021)

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