



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 29.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE **N.KIRUBAKARAN**

AND

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.A. (MD)No.1102 of 2020

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

: Appellant

Vs.

1.R.Babu

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

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

: Respondents

PRAYER: Appeal filed under Clause 15 of the Letters Patent challenging the order dated 09.01.2020, made in W.P.(MD)No.15503 of 2014.

Prayer in WP(MD). 15503/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, 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. 13 TE10201421) as BT Assistant (School Assistant) in HHistory Major with effect from the date on which other candidates are appointed and granting such other and further reliefs wahich this Honourable Court deems fit and proper in the circumstances of the this case and thus render justice.

For Appellant	: Mr.VR.Shanmuganathan
For Respondents	: Mr.Veera Kathiravan
	Senior Counsel
	for Mr.K.Muthumalai for R.1
	Mr.Ragatheesh Kumar
	for M/s.Issac Chambers for RR.2 & 3



JUDGMENT

(Judgment of the Court was delivered by **B.PUGALENDHI, J.**)

This writ appeal is directed as against the order passed by the learned Single Judge in W.P.(MD)No.15503 of 2014, dated 09.01.2020. The said writ petition was filed by the first respondent / writ petitioner as against the order passed by the appellant rejecting the writ petitioner for the post of B.T. Assistant (History) on the ground that he has acquired the required qualification of B.A., (History) Degree in one year duration and therefore, he is not eligible for appointment.

2. The appellant / Teachers Recruitment Board conducted Teachers Eligibility Test (TET) on 18.08.2013 and based on the scores obtained, the writ petitioner was called for recruitment to the post of B.T. Assistant (History). During the certificate verification, it is found that the writ petitioner obtained B.A., (History) Degree in one year duration and therefore, the appellant rejected the writ petitioner's candidature. Aggrieved over the same, the writ petition was filed. The learned Single Judge, by referring to the orders of this Court in **N.Chitra v. State of Tamil Nadu and Others**, in **W.P. (MD)No.19764 of 2014, dated 08.05.2017**, allowed the writ petition with a direction to the appellant to consider the B.A., (History) Degree issued by the Madurai Kamaraj University as valid and to appoint the petitioner in the post of B.T. Assistant (History).

3. Mr.VR.Shanmuganathan, learned Standing Counsel appearing for the appellant submitted that the writ petitioner joined B.Sc., (Mathematics) three years course, studied for two years and thereafter, applied for change of course from B.Sc., (Mathematics) to B.A., (History) and completed all the papers pertaining to B.A., (History) in the third year, ie., one year and obtained the B.A., (History) Degree certificate in the year 1995. Based on the U.G. Degree, he pursued B.Ed., Course in Bharathiyar University and also obtained B.Ed., Degree and thereafter, applied for the post of B.T. Assistant. He further submitted that a B.T. Assistant (History) Teacher is expected to teach the subject (History) for the students. Therefore, the necessary qualification for the said post is a Degree in the subject. The writ petitioner has obtained the B.A., (History) Degree in one year, instead of three years. Therefore, he is not eligible for consideration as per the decision of this Court in **R.Thirunavukkarasau v. State of Tamil Nadu and Others**, reported in **(2012) 5 CTC 129**, which was confirmed by a Division Bench of this Court in **W.A.No.529 of 2013, etc., batch, dated 05.02.2014**, in **Pramakumari and Others v. R.Karthikeyan and Others**.

4. The learned Senior Counsel appearing for the first respondent / writ petitioner submitted that the writ petition was



allowed based on the earlier order passed by this Court in **N.Chitra**'s case (supra). He further submitted that B.A., (History) Degree certificate was issued by the Madurai Kamaraj University and based on this UG Degree, the writ petitioner applied for B.Ed., course in Bharathiyar University, where also the writ petitioner's qualification was considered and accepted by the Bharathiyar University for studying B.Ed., course. The appellant is not competent to say that the B.A., (History) Degree offered by a recognized University is not a valid one.

5. This Court paid it's anxious consideration to the rival submissions made and also to the materials placed on record.

6. The facts of the case are not in dispute. The writ petitioner initially joined B.Sc., (Mathematics) course and having studied for two years, opted for change of course and studied B.A., (History) in the third year. He cleared all the papers pertaining to B.A., (History) in one year, ie., the third year and obtained the Degree certificate from Madurai Kamaraj University. Based on the B.A., (History) Degree, he also studied B.Ed., Course and obtained B.Ed., Degree from the Bharathiyar University.

7. In the decision relied upon by the learned Standing Counsel appearing for the appellant in **R.Thirunavukkarasau**'s case (supra), a learned Single Judge of this Court has discussed the dual degree issued by the University and held as follows:

"15. The first contention of the learned counsel appearing for the contesting respondents revolves around the provisions of the University Grants Commission Act, the Regulations issued thereunder, the definition of a degree under these Regulations and the power of the State vis-a-vis the prescription contained in the University Grants Commission Act and the Regulations.

... ..

20. Insofar as the non formal/distance education in the same faculties are concerned, the Regulations issued by UGC are known as the University Grants Commission (The Minimum Standards of Instructions for the Grant of the First Degree through Non-Formal/ Distance Education in the Faculties of Arts, Humanities, Fine Arts, Music, Social Sciences, Commerce and Sciences) Regulations, 1985. Regulation 2 of these Regulations are exactly identical to Regulation 2 of the Regulations relating to formal education except that there are two changes. The changes are--

(i) Regulation 2(1) of the Regulations relating to formal education makes it compulsory for a student to successfully complete 12 years of schooling, for admission to the first degree course through formal education. But Regulation 2(1) of the Regulations



relating to non-formal/distance education permits those who are not below the age of 21 years to seek admission to the first degree course through non-formal education, even if there is no previous academic record, provided they had passed an entrance test.

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(ii) Another change in Regulation 2 of the Regulations relating to non-formal education is that no student enrolment is prescribed with reference to the number of teachers and physical facilities, as in the case of Regulation 2(2) of the Regulations relating to formal education.

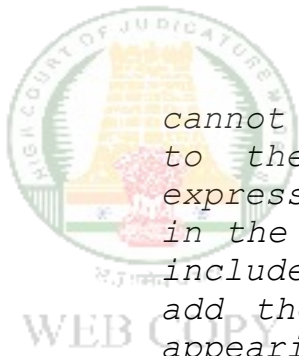
21. What is important to note is that the provisions contained in Clause (3) of Regulation 2 of the Regulations relating to formal education are repeated in Regulation 2(2) of Regulations relating to non-formal education along with the two provisos contained therein.

22. Therefore, it is clear that no student will be eligible for the award of the first degree unless he has successfully completed a 3 year course. Moreover, no student will be eligible, by virtue of the first proviso of Regulation 2(3) or Regulation 2(2) relating to formal or non-formal education as the case may be, for admission to a Master's Degree unless such a person has successfully pursued the first degree course of a 3 years duration.

23. A careful reading of the Scheme of both these Regulations, one relating to formal education and another relating to non-formal education makes it clear that the emphasis is on "a course of a duration of 3 years", for the award of a first degree. The contesting respondents in these cases admittedly have secured their first degree, after undergoing a course of a duration of 3 years. It is only the additional degrees or the dual degrees that they have obtained after the completion of the first degree, that were of a duration of one year or even less. Therefore, the simple contention of the contesting respondents is that the restriction contained in Regulation 2(3) or Regulation 2(2) of the formal or non-formal education Regulations, as the case may be, that a degree course should be of a duration of 3 years, would not apply to the additional degrees obtained by them, as the contesting respondents have already obtained their first degree after undergoing a course of a duration of 3 years.

... ..

25. Mr.AR.L.Sundaresan, learned Senior Counsel appearing for one of the contesting respondents contended that the expression "first degree" appearing in Regulation 2(3)



cannot be read as "the first degree in a subject". According to the learned Senior Counsel, such a reading of the expression "first degree" would amount to reading something in the Regulation that the Regulating Body itself omitted to include consciously. Therefore, he contended that I cannot add the words "in a subject" to the words "first degree" appearing in Regulation 2(3).

.... .

28. Most of the contesting respondents have acquired a dual degree in a different subject, through non-formal/distance education. While the Regulations of U.G.C. relating to formal education contain several prescriptions such as the number of working days in an academic year, the Time Table containing not less than 40 clock hours per week etc., the Regulations relating to non-formal education contain a detailed programme of study under Regulation 3. Regulation 3(1) of the Regulations relating to non-formal education, stipulate that every lesson should constitute approximately one week's reading and that there should be at least 25 lessons in each main subject of study. Regulation 3 (3) of the non-formal education Regulations mandate a contact programme to be organised for 8 to 10 days, in different places. The classes are required to be arranged on Sundays and other holidays at the Headquarters. Regulation 3 (5) of the non-formal education Regulations prescribe that every student should do at least 5 home assignments in each subject. Similarly, Regulation 4 of the non-formal education Regulations contains the prescription regarding the manner in which the examinations are to be conducted. A careful reading of Regulations 3 and 4 of the Regulations relating to non-formal education would show that they are all designed only with respect to degrees of a duration of 3 years and not degrees of a duration of one year. In 1985, when these Regulations were issued, the University Grants Commission could never even have contemplated that such a fraud could be perpetrated upon these Regulations. Therefore, the entire scheme of both these Regulations (formal and non-formal) contain prescriptions which cover only degrees of a duration of 3 years. Hence to say that a second degree though obtained in a different subject, would not come within the meaning of the expression "first degree" would only pervert the stream of education. It must be remembered that the petitioners and the contesting respondents are teachers aspiring to get promotion to the post of B.T. Assistants so as to teach students in middle schools. Therefore, such an interpretation to the U.G.C. Regulations, coming as it does from teachers, is very unfortunate.



.... .

82. It must be noted that the recruitment of teachers in schools, is being made by the Government, merely on the basis of seniority of registration in the Employment Exchanges, in the past few years. This itself has struck at the root of quality, in the matter of selection. If one year degrees are also recognised as equivalent to 3 year degrees, that would sound the death knell for the schools run by Government. Therefore, the stand taken by the Department in their communication dated 19.7.2012, not to recognise dual degrees, is a correct and appreciable step. In view of the above, the writ petitions are allowed and the official respondents are directed not to recognise, both for appointment as well as for promotion, the dual degrees obtained by candidates after undergoing a Course of a duration of one year, as equivalent to a degree obtained after undergoing a Course of a duration of 3 years. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed."

8. The aforesaid decision of the learned Single Judge was upheld by a Division Bench of this Court in **Pramakumari's** case (supra), as follows:

"42. The learned Judge in the impugned judgment, on a threadbare analysis of the factual aspects and legal position, has come to the conclusion that the writ petitioners seek to agitate totally a different subject on the basis of a degree obtained after undergoing a course of one year duration and can be compared with the regular undergraduate degree of three years duration and therefore, directed the official respondents not to recognize the candidature of such persons both for appointment as well as for promotion. The Teachers Recruitment Board (TRB) has taken into consideration the said aspect and rightly rejected the claim of the writ petitioners that they are ineligible for TET on the ground that the claim made by them on the basis of the degree of one year duration is invalid.

43. This Court, on a thorough consideration and appreciation of the entire materials placed before it, is of the considered view that there is no error apparent or infirmity in the reasons assigned by the learned Judge and finds no infirmity in the impugned common order dated 14.08.2012 made in W.P.Nos.19631/2011 etc., batch reported in 2012 (5) CTC 129.



44. In the light of the reasons assigned above, all the writ appeals are dismissed confirming the common order dated 14.08.2012 made in W.P.Nos.19631/2011 etc."

9. In view of the settled position of law, we are of the view that the writ petitioner is not entitled for appointment, based on a Degree which has been obtained in one year. Insofar as the decision relied upon by the learned Senior Counsel appearing for the writ petitioner in **N.Chitra**'s case (supra) is concerned, the petitioner therein has joined a course of B.Sc., (Information Technology), discontinued after first year and rejoined the course of B.A., (Tamil). There the petitioner had studied the subject Tamil even while she was undergoing the course of B.Sc., (Information Technology). She had undergone Tamil subject for three years, whereas, in the present case, the writ petitioner studied a different subject of Mathematics in the first two years and thereafter, studied the subject History. Therefore, it cannot be equated with the case on hand and the relief cannot be granted to the petitioner herein.

10. In any case, in view of the decision of the Division Bench in **Pramakumari**'s case (supra), we are inclined to interfere with the impugned order. Accordingly, the order dated 09.01.2020 in W.P.(MD) No.15503 of 2014 stands set aside and the order impugned in the writ petition stands confirmed.

11. In fine, this writ appeal stands allowed. Consequently, the writ petition stands dismissed. There shall be no order as to costs. Pending miscellaneous petitions, if any, shall stand closed.

Sd/-

Assistant Registrar (AE)

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Sub Assistant Registrar(CS)

To

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

2.The Controller of Examinations,
Madurai Kamaraj University,
Madurai - 625 021.

<https://hcservices.hcscourts.gov.in/hcscs/625021>



+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-18149[F] dated 30/04/2021

W.A. (MD)No.1102 of 2020
29.04.2021

PM(CO)

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