



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.16134 of 2021

and

W.M.P. (MD) No.12996 of 2021

V.Murali

... Petitioner

-VS-

1.District Educational Officer
Aranthangi Educational District
Aranthangi, Pudukottai District

2.Block Educational Officer
Avudaiyarkoil
Pudukottai District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records on the file of the first respondent in connection with the impugned order of reversion passed by him in his proceedings in Na.Ka.No.1291/A3/2021, dated 27.08.2021 (served on 31.08.2021) and quash the same as illegal and arbitrary.

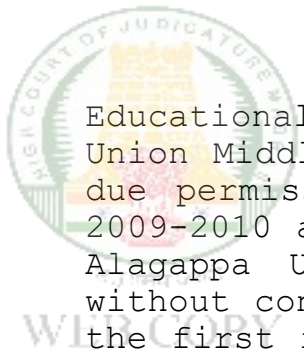
For Petitioner : Mr.Gurunathan.K.

For Respondents : Mr.A.K.Manikkam
Government Counsel

O R D E R

The prayer in this writ petition is for issuance of a writ of certiorari to quash the order dated 27.08.2021, passed by the first respondent, whereby and whereunder the petitioner was reverted back to the post of Secondary Grade Teacher.

2. According to the petitioner, he joined as Secondary Grade Teacher on 01.11.2004 and subsequently promoted as Graduate Teacher (English) on 06.08.2016 by the District Elementary



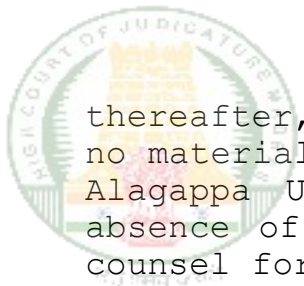
Educational Officer, Pudukottai and he was posted in the Panchayat Union Middle School, Vilanur, Pudukottai District. After obtaining due permission, the petitioner completed B.Ed. Course in the year 2009-2010 and after completion of B.Ed., he joined B.A.(English) in Alagappa University in the month of November, 2010. However, without considering the fact that he had not undergone dual degree, the first respondent has passed the impugned order dated 27.08.2021 reverting the petitioner to the post of Secondary Grade Teacher. Challenging the same, the petitioner has filed this writ petition.

3. The first respondent has filed a counter affidavit stating that the petitioner completed B.A. English, one year duration course, in Manonmaniam Sundaranar University during 2010-2011. He also completed another B.A. English, three years course, in Alagappa University, during 2009-2012 and also B.Ed., course in Indira Gandhi National Open University during 2008-2010. The petitioner's name was included in the seniority panel for promotion to the post of B.T.Assistant (English) by the second respondent as on 01.01.2016 and his name was shown in Serial No.1.

4. It is further stated in the counter affidavit that since the names of Arunkumar and Dharmaraj, who have undergone dual degrees, have been included in the seniority list in Serial Nos.2 and 3, one Saravanan, who is junior to them and placed at Serial No.5 in the seniority list, challenged the above promotion before this Court by filing a writ petition in W.P.(MD) No.15019 of 2016 and this Court, by order dated 21.03.2018, partly allowed the writ petition by quashing the promotion given to Dharmaraj and upheld the promotion given to Arunkumar. Aggrieved by the order dismissing the relief as against Arunkumar, the petitioner therein namely Saravanan preferred W.A.(MD) No.1606 of 2018 and aggrieved by the order quashing the promotion, Dharmaraj filed W.A.(MD) No.834 of 2018. The Honourable Division Bench of this Court, by a common Judgment dated 26.09.2019, allowed the writ appeal filed as against the dismissal of the writ petition and dismissed the writ appeal filed as against the order quashing the promotion given to Dharmaraj. Ultimately, the writ petitions filed by the said Saravanan were allowed. In such circumstances, since the petitioner herein had undergone dual degrees, viz. B.Ed. Course (during 2008-2010) and B.A. English course (three years course) (2009-2012) simultaneously, he is not eligible for promotion as the aforesaid Judgment dated 26.09.2019 and therefore, he was reverted back to the post of Secondary Grade Teacher and therefore, prayed for dismissal of the writ petition.

5. Heard the learned counsel on either side and carefully perused the materials available on record.

6. On perusal of the materials placed by the petitioner, it is seen that he has completed B.Ed. Course during December, 2009 and



thereafter, joined B.A. English course during January, 2010. But, no material has been produced to show that he joined B.A. English in Alagappa University during the month of January, 2010. In the absence of any such material, the contentions made by the learned counsel for the petitioner are unacceptable.

7. This Court in a similar matter, by a detailed order dated 14.08.2012 in W.P.Nos.19631 of 2011 etc. batch, has categorically held that dual degree is not eligible for promotion.

8. The Honourable Division Bench of this Court, by Judgment dated 26.09.2019 in W.A.(MD) No.1606 of 2018 filed by one Saravanan, who is junior to the petitioner herein and challenged the promotion list, wherein the petitioner is one of the candidates, has held as follows:

"3.Firstly, we need to point out that there is a great doubt as to whether the Course can be conducted in a calendar year because the documents which have been filed in the typed set of papers shows the academic year and there is no specific mention of the calendar year. Even assuming that the Course has been conducted by the University in the calendar year, Mr.A.Dharmaraj produced the Course Completion Certificate, dated 29.9.2015 which shows that he has completed the course in the calendar year 2012-2014, There is no overlap in the second year of the course, as A.Dharmaraj has joined M.A Tamil only in May 2013.

4.The learned counsel for the appellants would contend that the appellant was permitted by the department to pursue his M.A Tamil during the academic year 2013~2015 vide proceedings, dated 28.2.2014. The permission granted by the Department for acquiring higher qualification can have no justification to justify in pursuing two courses simultaneously. We, therefore, concur with the view taken by the learned Single Bench insofar as the case of A.Dharmaraj is concerned.

5.Nextly, we consider the case of P.Arunkumar, who was the fourth respondent in the Writ Petition. The learned Single Bench dismissed the Writ Petition as against the said Arunkumar accepting the argument that Arunkumar discontinued B.A English Course after the first year course and B.Ed course was completed in December 2012 and thereafter only in January 2013, the said Arunkumar re~joined in the second year of B.A Course. To establish this fact, the said candidate P.Arunkumar placed reliance on the Fee Paid Certificate, dated 26.10.2016, wherein, the date of demand draft for payment of the



second year fees namely, the first instalment is shown as 18.1.2013. The Fee Paid Certificate obtained much after the filing of the Writ Petition, cannot in any manner justify the date on which the academic session would begin for the course. Even in the said certificate, the three years are mentioned as 2009-2010, 2012-2013 and 2013-2014. Thus in the absence of any other record to take the year as academic year or calendar year, it should be in May 2012. Even assuming that there is late admission which was done by the Open University, that cannot alter the period as academic session. Probably additional class will have to be taken, if it is a regular course. But being a correspondence course, Annamalai University face no such problem and even if it has admitted the candidate in the fake end of the academic session, still on record, the candidate will be shown as admitted at the commencement of the academic session.

6. Therefore, we are of the view that the candidate Arunkumar also had pursued simultaneously two degree courses. One more reason to support this conclusion is by taking into account the fact that P.Arunkumar joined in the second year in the B.A.Course, if P.Arunkumar joined as a fresh candidate in the first year in B.A Course, problem would not have arisen. Therefore, the University by condoning the break, has treated him as a candidate who has joined the course in the academic year 2009-2010. Therefore, the said candidate P.Arunkumar also has to be non-suited on the ground that he had pursued two degree courses simultaneously. One of us (TSSJ) sitting in the Single Bench, had an occasion to deal with more or less identical issue in W.P.No.26275 of 2014. After noting the factual position and which was also a case where a candidate discontinued and rejoined in the middle of the Course, the Writ Petition was dismissed by an order, dated 12.11.2014. Therefore, we are of the considered view that the learned Single Judge ought to have allowed the Writ Petition as against P.Arunkumar also.

7. The learned counsels appearing for A.Dharmaraj and P.Arunkumar would submit that the appellants/Writ Petitioner S.Saravanan is also no better a candidate, as he has also pursued two



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courses simultaneously. If that is so, it goes without saying that the District Elementary Educational Officer or the Chief Educational officer concerned should verify the same and if it is found that the appellant/Saravanan had pursued two courses simultaneously, appropriate action should be taken against Saravanan, as to his entitlement to be promoted, after notice. Before parting with the matter, we make an observation as to why the Department has not done any proper verification and without application of mind, has processed the papers unmindful of the fact and ultimately, the sufferer is the Teacher, who has acquired qualification with the fond hope that the Department will provide promotional opportunities. When that is denied, the morale of the Teacher stands affected and ultimately the victim are the children. It is high-time, the officers concerned should wake up of the situation.

8. For all the above reasons, W.A(MD)No.834 of 2018 stands dismissed and W.A.(MD)No.1606 of 2019 stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed."

9. Recently, the Honourable Division Bench of this Court, by Judgment dated 17.08.2021 in W.A.No.31 of 2021 [**R.Kalaiyarasi vs. The Chairman, Teachers Recruitment Board and another**] has held as follows:

"3. Admittedly, in the present case, though the appellant had appeared for the written examination and cleared the same successfully, during the certificate verification, it was noticed that the appellant had done B.Ed., course simultaneously along with the P.G. Course, which is in violation of clause 4(4) as mentioned supra. Therefore, the respondent had found the ineligibility for appointment and rejected her candidature.

4. The Learned counsel for the appellant submitted that the appellant had joined M.Sc. (Mathematics) during the year 2007 in Distance Education Program conducted by the Annamalai University. The above course is for two years from 2007 to 2009. After writing the first year papers, the appellant joined B.Ed., course in the year of 2008~2009 and passed the same successfully.



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Thereafter, the appellant wrote the second year examination along with arrear papers in M.Sc. (maths) and cleared the same in the year 2014~2015. The Learned counsel for the appellant strenuously contended that during relevant year 2008~2009, the appellant had not pursued the P.G Degree and she studied only B.Ed., and therefore, it cannot be stated that the appellant pursued simultaneous degrees.

5. The said arguments cannot be accepted as without the completion of the course period, the appellant had taken up another degree. In fact, the appellant was permitted to write and complete the P.G. Degree only because she had completed the course period. Having studied the B.Ed degree course before completion of the PG Degree Course period, the same could be only deemed to be a simultaneous degree. In this regard, it would be appropriate to advert to the following paragraphs of the recent judgment of the Full Bench of this court in R.Chitra V. Member Secretary, Government of Tamil Nadu, Teachers Recruitment Board and another, 2021 (2) LW 846:

"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



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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.

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 herein above, we are not in agreement with the judgment 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."



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6. From the above, it is clear that the prescription of the qualification for the post of P.G. Assistant is a matter of recruitment policy. The Teachers Recruitment Board is entitled to prescribe the qualification as a condition of eligibility. It is also settled principle that even equivalence of the qualification cannot be determined by the courts by exercising the judicial review. Similarly, the prescription of qualification by the Teachers Recruitment Board cannot be expanded by virtue of a judicial order. In such circumstances we are not inclined to interfere with the order of the writ court which had rightly upheld the order of the rejection of the candidate.

7. Therefore, the writ appeal fails and the same is dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is closed."

10. In view of the above settled legal position, this Court does not find any merit in the petitioner's contentions and the impugned reversion order passed by the first respondent does not warrant any interference of this Court and the writ petition is therefore liable to be dismissed.

11. Accordingly, the writ petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL)

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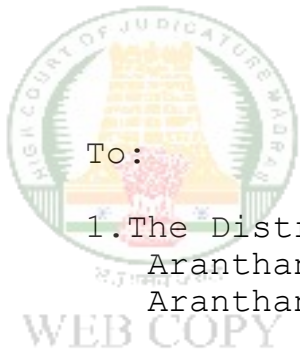
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Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

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To:

1.The District Educational Officer,
Aranthangi Educational District,
Aranthangi, Pudukottai District.

2.The Block Educational Officer,
Avudaiyarkoil,
Pudukottai District.

+1 CC to M/s.K.GURUNATHAN, Advocate (SR-31474[F] dated 07/10/2021)

+1 CC to M/s.SPL.GP (SR-31495[F] dated 07/10/2021)

W.P. (MD) No.16134 of 2021
and
W.M.P. (MD) No.12996 of 2021
06.10.2021

MGJ/UV(08.11.2021) 9P 5C