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W.P.No.602 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2022

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.602 of 2021
and WMP Nos.673 and 675 of 2021

A.Sumithra

... Petitioner

Versus

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

2. The Chairman,
Teacher Recruitment Board,
4th Floor, E.V.K.Sampath Maaligai,
DPI Campus, College Road,
Chennai-600 006

..., Respondents

Prayer:-Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified Mandamus to call for the records relating to the impugned revised selection list issued by the second respondent in No.Nil dated 28.12.2020 and quash the same insofar as deletion of name of the petitioner from the selection list is concerned and consequently directing the respondents to restore the name of the petitioner for selection to the post of Computer Instructor Grade-I(Post Graduate Cadre) under MBC-DNC category based on the ranking/marks secured by the petitioner in the selection in pursuant



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to the Notification No.09/2019 dated 01.03.2019 and to appoint the petitioner based on the ranking/marks secured by the petitioner in any one of vacancies in Dindigul district with all consequential and other attendant benefits including seniority.

For Petitioner : Mr.J.Jayamalan
For Respondents : Mr.R.Neelakandan
Additional Advocate General-8
Assisted by
Mr.C.Kathiravan
Spl.G.P
For R.2
Mr.C.Sathish
Govt.Advocate
For R.1

ORDER

The petitioner has challenged the removal of her name from the revised provisional selection list to the post of Computer Instructor Grade-I (Post Graduate Cadre) under the impugned selection list dated 28.12.2020 issued by the second respondent.

2. The petitioner was originally selected for the aforementioned post as per the provisional selection list of the Teachers Recruitment Board dated 11.01.2020. The petitioner, thereafter, was called upon to come for certificate verification with the Teachers Recruitment Board on the stipulated date.



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However, under the impugned revised provisional selection list issued by the second respondent dated 28.12.2020, her name has been removed. The petitioner has now come to know that her name has been removed from the selection list on the ground that she has not achieved the educational qualification before the cut-off date i.e., on 10.04.2019.

3. The petitioner has categorically contended that in the affidavit filed in support of the writ petition that she has satisfied the educational qualification criteria for being selected to the post of Computer Instructor Grade-I(Post Graduate Cadre) as she has completed her M.Sc (Computer Science) degree on 15.03.2019 i.e., prior to the cut-off date. The petitioner has filed documents, which include the degree certificate as well as the mark sheets to substantiate her claim that she is eligible to be appointed to the post of Computer Instructor Grade-I(Post Graduate Cadre).

4. A counter affidavit has been filed by the respondents, wherein, they have stated that the consolidated mark sheet submitted by the petitioner at the time of certificate verification pertaining to her M.Sc degree is dated 21.10.2019, which is much beyond the cut-off date which falls on 10.04.2019.



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The petitioner has also not uploaded the consolidated mark statement dated 21.10.2019 along with her on-line application, seeking for the subject post.

According to the respondents, it has been made clear in the Recruitment Notification dated 01.03.2019, inviting aspirants for seeking appointment to the subject post that all qualifying/equivalent certificates should have been obtained prior to the last date for submission of filled-in on-line applications. Therefore, according to the respondents, since the consolidated mark statement for M.Sc degree is dated 21.10.2019, the respondents have rightly removed the petitioner's name from the selection list under the impugned revised selection list dated 28.12.2020.

5. Heard Mr.J.Jayamalan, learned counsel for the petitioner and Mr.R.Neelakandan, learned Additional Advocate General, assisted by Mr.C.Kathiravan, learned Special Government Pleader appearing for the second respondent and Mr.C.Sathish, learned Government Advocate appearing for the first respondent.

6. Learned counsel for the petitioner drew the attention of this court to the educational qualification criteria mentioned in the Notification No.09/2019



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dated 01.03.2019 inviting aspirants seeking for the post of Computer Instructor

Grade-I (Post Graduate Cadre). Learned counsel also drew the attention of this Court to the other qualifications mentioned therein. According to him, as per the mark sheets and the degree certificates filed along with the writ petition, it is clear that the petitioner had obtained Master degree on 15.03.2019 itself. Therefore, he would contend that much prior to the cut-off date i.e., 10.04.2019, the petitioner has achieved the qualification criteria. However, learned counsel would submit that though she was included in the provisional selection list dated 11.01.2020, her name has been arbitrarily removed from the impugned revised provisional selection list issued by the second respondent dated 28.12.2020.

7. Learned counsel for the petitioner also drew the attention of this Court to an order passed by this Court in WP No.33575 of 2019 dated 24.01.2020, involving an identical matter in the case of ***V.Prabu vs The Director of School Education and another*** and in particular, he referred to paragraph Nos.9 and 10 of the said order and would submit that in similar circumstances, the learned Single Judge had allowed the writ petition by holding that the production of the certificate at a later point of time will not take away the essential qualification that was possessed by the petitioner on the date of



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submission of application.

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8. Learned counsel for the petitioner would submit that in the instant case also, the petitioner was holding the essential qualification viz., M.Sc (Computer Science) prior to the cut-off date i.e, 10.04.2019. Learned counsel also drew the attention of this Court to the judgment of the Hon'ble Supreme Court in the case of *Food Corporation of India vs Rimjhim* reported in (2019) 5 SCC 793 and in particular, he referred to paragraphs 11 and 13 therein. He would submit that the respondents ought not to have taken a formalistic and ritualistic approach which is unwittingly traumatic, unjust and subversive to the petitioner who is seeking for employment in public service. He would also submit that in the said judgment, following various decisions, it has been held that much hardship and harassment in administration flows from overemphasis on the external rather than the essential requirement.

9. Per contra, learned Additional Advocate General appearing for the second respondent would reiterate the contents of the counter affidavit filed by the second respondent. He would submit that the petitioner having not uploaded the consolidated mark sheet pertaining to her M.Sc degree which was produced



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at the time of certificate verification which is dated 21.10.2019, the respondents have rightly removed the petitioner's name from the selection list.

DISCUSSION:-

10. In the instant case, the petitioner's right to seek appointment to the post of Computer Instructor Grade-I(Post Graduate Cadre) has been protected by this Court by directing the respondents to reserve one post for the petitioner until further orders. This Interim order was passed on 11.01.2021. The petitioner has also satisfied the educational criteria prescribed under Notification No.09/2019 dated 01.03.2019 for direct recruitment to the post of Computer Instructor Grade-I(Post Graduate Cadre) by producing the following documents before this Court:-

- a) Copy of B.Sc degree certificate
- b) Copy of B.Ed degree certificate
- c) Copy of Statement of year wise marks for M.Sc (Computer Science) degree obtained by the petitioner dated 06.09.2017, 15.06.2018 and 15.03.2019.
- d) Copy of Admit Card for Computer Based Examination
- e) Copy of Consolidated mark statement for M.Sc



degree obtained by the petitioner dated 21.10.2019

f) Copy of Call letter to attend certificate verification dated 03.01.2020

g) Copy of provisional selection list issued by Teachers Recruitment Board for direct recruitment to the post of Computer Instructor Grade-I(Post Graduate cadre) dated 11.01.2020.

11. As seen from the above documents, it is clear that the petitioner has completed her M.Sc (Computer Science) degree which is one of the education requirements for getting selected to the subject post on 15.03.2019 itself. The application seeking for the post as per the Notification dated 01.03.2019 has to be submitted by any aspirant on or before 10.04.2019. Therefore, the educational qualification criteria prescribed under the Notification dated 01.03.2019 has been satisfied by the petitioner as she has obtained M.Sc degree on 15.03.2019 itself.

12. Admittedly, under the earlier provisional selection list issued by Teachers Recruitment Board dated 11.01.2020, her name was included as one of the selected candidates. However, under the impugned revised provisional selection list dated 28.12.2020 issued by the second respondent, the petitioner's name has been arbitrarily removed. It is now contended by the respondents that



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only due to the reason that the consolidated mark statement for M.Sc degree has been obtained by the petitioner on 21.10.2019 which was produced at the time of certificate verification the petitioner's name was removed from the selection list. Since the said mark statement dated 21.10.2019 is beyond the cut-off date which falls on 10.04.2019, the respondents have removed the petitioner's name from the selection list under the impugned revised provisional selection list dated 28.12.2020.

13. The Hon'ble Supreme Court in the judgment relied upon by the learned counsel for the petitioner in the case of ***Food Corporation of India vs Rimjhim*** reported in ***(2019) 5 SCC 793*** has deprecated this practice. Having satisfied the essential requirement of holding M.Sc Computer Science degree on 15.03.2019 itself, much prior to the cut-off date i.e., on 10.04.2019, the respondents by adopting an unjust method on technicalities has arbitrarily removed the petitioner's name from the selection list though she has satisfied all the essential requirements for the selection. The Hon'ble Supreme Court in the aforesaid decision has observed that the respondents should not take a formalistic, ritualistic and unjust and subversive methods for rejecting any aspirants request seeking for appointment in public service. The Hon'ble Supreme



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Court has also observed by following various decisions that much hardship and harassment in administration flows from overemphasis on the external rather than the essential.

14. Having satisfied with all the requirements for selection to the subject post, the petitioner's name ought not to have been removed under the impugned revised provisional selection list dated 28.12.2020. In an identical matter, the learned Single Judge of this Court, in a decision relied upon by the learned counsel for the petitioner in the case of ***V.Prabu vs The Director of School Education and another***, referred to supra has also held by following the aforementioned decision of the Hon'ble Supreme Court that when the essential qualification has been fulfilled by the petitioner, the production of the certificate at a later point of time will not take away the essential qualification that was possessed by the petitioner on the date of submission of the application.

15. The aforementioned decision of the learned Single Judge squarely applies to the facts of the instant case also. In the instant case also, the petitioner has satisfied all the essential qualification criteria for getting selected to the subject post excepting for the fact that the consolidated mark sheet produced by



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her to the respondents at the time of certificate verification is dated 21.10.2019

though it is not disputed by the respondents that she has completed M.Sc (Computer Science) degree on 15.03.2019 itself much prior to the cut-off date.

16. For the foregoing reasons, the writ petition will have to be necessarily allowed. Accordingly, the removal of the petitioner's name from the selection list to the post of Computer Instructor Grade-I(Post Graduate Cadre) under the impugned revised provisional selection list dated 28.12.2020 is arbitrary and illegal.

17. In the result, the writ petition is allowed. The second respondent is directed to send the proposal of petitioner's selection to the post of Computer Instructor Grade-I (Post Graduate) Cadre to the first respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the said proposal from the second respondent, the first respondent shall issue

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appointment order to the petitioner for the post of Computer Instructor Grade-I (Post Graduate) within a period of four weeks thereafter.



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No costs. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No

Speaking Order/Non-Speaking Order

To

1. The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
2. The Chairman,
Teacher Recruitment Board,
4th Floor, E.V.K.Sampath Maaligai,
DPI Campus, College Road,
Chennai-600 006

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