

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.2637 of 2016
and
W.M.P.No.2199 of 2016

R.Seetha

... Petitioner

-Vs-

1. The Principal Secretary to the
State of Tamil Nadu,
Education Department,
St. George Fort,
Chennai - 600 019.

2. The Member Secretary,
Tamil Nadu Teachers'
Recruitment Board,
Chennai - 600 006.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to appoint the petitioner as P.G. Asst. Teacher in Tamil in the recruitment year 2013 with all attendance and service benefits based on the representation of the petitioner dated 11.11.2015.

For Petitioner : Ms.Dakshayani Reddy

For R1 : Ms.P.Rajarajeswari,
Government Advocate

For R2 : Mr.C.Kathiravan,
Special Government Pleader

ORDER

The petitioner herein is aggrieved against her non-selection to the post of Post Graduate Assistant (Tamil), pursuant to the notification dated 09.05.2013. The reason assigned by the respondents for disqualifying the petitioner is that she had simultaneously pursued the Masters Degree as well as the B.Ed., Degree between the years 2005 and 2008.

2. The issue as to whether such simultaneous qualification could be treated as a valid qualification for the purpose of selection process, came up for consideration before an Hon'ble Division Bench of this Court in the case of R.Kalaiyarasi Vs. The Chairman, Teachers Recruitment Board and another passed in W.A.No.31 of 2021, dated 17.08.2021, wherein it was held that the qualification of B.Ed., course before the completion of Post Graduate course requires to be treated as a simultaneous degree and therefore cannot be deemed as a qualification for the purpose of selection. The relevant portion of the order reads as follows:-

"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 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."

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."

3. The aforesaid extract is self explanatory. The facts involved in the aforesaid decision is similar to that of the present case also. In the case of P.Kalaiyarasi (supra), the candidate therein had joined M.Sc. (Mathematics) in the year 2007 and thereafter pursued B.Ed., course in the year 2008-2009 and the M.Sc. second year was cleared in the year 2014-2015. In the instant case also, the petitioner herein had joined M.A., in the year 2005-2006 and had joined B.Ed., in the year 2006-2007 and thereafter had pursued the second year M.A., in the year 2007-2008. This method adopted by the petitioner was held to be a simultaneous degree, which cannot be treated as a recognised qualification. Since the Hon'ble Division Bench had already expressed its views that simultaneous degrees are impermissible for the purpose of selection, I do not find any merits in the claim made by the petitioner in the present writ petition.

4. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to the
State of Tamil Nadu,
Education Department,
St. George Fort,
Chennai - 600 019.
2. The Member Secretary,
Tamil Nadu Teachers'
Recruitment Board,
Chennai - 600 006.

+1cc to Mr.C.Kathiravan, Advocate, S.R.No.938
+1cc to the Government Pleader, S.R.No.1587

W.P.No.2637 of 2016
and
W.M.P.No.2199 of 2016

UM(CO)
CT 31/01/2022