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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A.NO.2928 OF 2019
&
C.M.P.NO.18990 OF 2019

R.Mekala

..Appellant

Vs.

1. The Director of School Education,
College Road, Chennai -6.
2. The Chief Educational Officer,
Salem District, Salem.

..Respondents

Prayer: Writ Appeal as against the order dated 04.02.2019
passed in W.P.No.503 of 2018.

Prayer in W.P.No.503 of 2018:-

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus or any other appropriate writ or order or direction in the nature of writ or order by directing the respondents to appoint the petitioner to the post of BT Assistant (Geography) pursuant to her selection by the Teachers Recruitment Board with all consequential benefits with effect from 28.11.2017 on par with her colleagues with all attendant benefits including salary, increments, seniority and all other benefits.

For Appellant :: Mr.P.Ganesan

For Respondents :: Mrs.Mythreyee Chandru
Special Govt. Pleader (Edn.)



J U D G M E N T

S VAIDYANATHAN, J. AND MOHAMMED SHAFFIQ, J.

Aggrieved by the order of the learned Single Judge dated 04.02.2019 passed in W.P. No. 503 of 2018, the present writ appeal has been preferred.

2. The writ petitioner, who is the appellant herein, approached this Court seeking a direction to the respondents to appoint her in the post of B.T. Assistant (Geography) pursuant to her selection by the Teacher's Recruitment Board (hereinafter referred to as 'TRB') with all consequential benefits from 28.11.2017 on par with others, with all attendant benefits including salary, increments, seniority and all other benefits. By the impugned order, the relief sought by the writ petitioner/appellant came to be rejected, which necessitated the filing of this writ appeal.

3. The case of the appellant is that after completing Higher Secondary, she had completed Diploma in Teacher's Education. Thereafter, she had completed B.Litt in the year 2013 and also came out successful in the Teacher's Eligibility Test held in August, 2013. The appellant subsequently completed B.Sc (Geography) through correspondence and also finished B.Ed in regular course. In response to the notification issued by TRB dated 27.04.2017 calling for filling up various posts of B.T. Assistant in different subjects, the appellant applied for the post of B.T. Assistant (Geography) in which there were 400 vacancies and after completion of certificate verification, the results were declared and the appellant was declared to have been selected. She was also allotted to a Government School in Dharmapuri District. However, she did not receive any appointment order and on enquiry, she came to understand that her candidature had been rejected on account of the fact that she had undergone dual degree course as far as B.Litt and B.Sc (Geography) courses are concerned.

4. According to the learned counsel for the appellant, B.Litt is not one of the qualifications prescribed for recruitment to the post of B.T. Assistant (Geography), that the appellant is not claiming any relief based on the said course, that she has undergone the pattern of study 10+2+3+2, that out of 400 candidates, only 16 have been selected including her and the rejection on the ground that she had undergone dual degree is bad. According to the learned counsel for the appellant, the learned Single Judge ought not to have rejected the relief on the ground that the writ petitioner/appellant was doing final year B.Litt during 2010-2011 and joined B.Sc (Geography) in the



same academic year in Tamil University, Thanjavur. According to the appellant, she completed B.Litt during 2010-2011 and applied for admission to B.Sc (Geography) through correspondence during 2010-2011 and the overlapping period is 3 months. Moreover, the qualification prescribed for the post in question is B.Sc (Geography) and B.Ed along with TET and B.Litt qualification has got nothing to do with the appointment in question. Further, it is the appellant's contention that there is no prohibition to pursue two degrees simultaneously and therefore, the rejection for the reason that she had completed 2 degrees simultaneously cannot be sustained. The appellant would further contend that when Government has issued orders that correspondence degree holders are also eligible to be considered for appointment and when it is not the stand of the respondents in the counter that degrees obtained through correspondence course will not be considered for appointment, the learned Judge erred in rejecting the writ petition observing that a candidate must have undergone a regular degree course and should not have obtained degree through Open University or Correspondence Course. Therefore, the order of the learned Single Judge is liable to be interfered with.

5. On the other hand, the respondents would submit that the appellant/writ petitioner has admitted that she had undergone two courses in the same academic year, which is contrary to the decision of the Full Bench of this Court dated dated 26th April, 2021 in W.P. No. 2807 of 2014 etc wherein the following reference was made:

"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?"

While answering the reference, the Court has held as follows:

"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 this Court cannot sit in the armchair of the policy maker."

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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 recognized 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 rule 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 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."

The learned Special Government Pleader would submit that from the above observations of the Full Bench, extracted supra, it is very clear that it is for the employer/recruiting agency to decide about recognizing a course for the purpose of recruitment and appointment and a candidate cannot, as a matter of right, seek a direction to the appointing authority to select and appoint him or her to a particular post. As regards the dual degrees obtained simultaneously are recognised, the candidate has no locus to seek any relief. Referring to paragraph No.21 of the judgment of the Full Bench, the learned Special Government Pleader submitted that till such dual degrees are recognised by UGC, such degrees conducted by Universities cannot be construed as degrees recognised as per the provisions of UGC Act. The relevant paragraph reads thus:

"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



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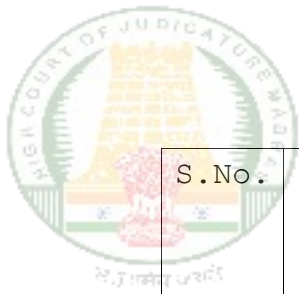
students are not permitted to undergo a second degree programme in formal mode in the same academic year. In such circumstances, unless simultaneous degrees obtained are recognized by the UGC with the prior approval of the Central Government, such degrees cannot be considered as recognized degree as 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.

The learned Special Government Pleader for the respondents further submitted that as there is overlapping of B.Litt course and B.Sc (Geography) course, the learned Judge has rightly negatived the request of the appellant/writ petitioner. According to the learned Special Government Pleader, the order of the learned Single Judge is perfectly valid and does not require any interference.

6. Heard both parties.

7. For the purpose of clarity, the qualification obtained by the appellant/writ petitioner is tabulated below:

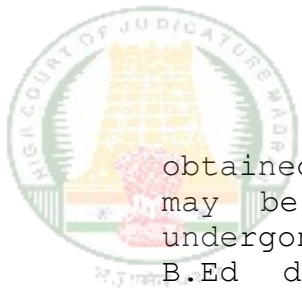
S.No.	Educational Qualification	Year of undergoing the course	Month and Year of passing	Name of the Board/University
1.	SSLC	2003-2003	April, 2004	Department of Govt. Examinations, Chennai -6.
2.	HSC	2005-2006	June, 2006	Department of Govt. Examinations, Chennai -6.
3.	D.T.Ed.	2006-2008	August, 2008	Department of Govt. Examinations, Chennai -6.
4.	B.Litt First Year	2008-2009	May, 2009	Annamalai University, Chidambaram.



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S.No.	Educational Qualification	Year of undergoing the course	Month and Year of passing	Name of the Board/University
	Second Year	2009-2010	May, 2010	Annamalai University, Chidambaram.
	Third Year	2010-2011	May, 2011	Annamalai University, Chidambaram.
5.	B.Sc (Geography) First Year	2010-2011	May, 2014	The Tamil University, Thanjavur
	Second Year	2011-2012	May, 2014	The Tamil University, Thanjavur
	Third Year	2012-2013	May, 2014	The Tamil University, Thanjavur
6.	B.Ed	2014-2015	May, 2015	Tamil Nadu Teachers Education University, Chennai.

8. There is no dispute with regard to the fact that the appellant/writ petitioner has undergone X standard, Plus two course, B.Sc degree through correspondence and also B.Ed course. Insofar as these qualifications are concerned, there is no overlapping. Of course, when the appellant/writ petitioner was doing final year of her B.Litt course, she had joined B.Sc (Geography) through correspondence course. Depending upon the course, the academic year differs. As rightly pointed out by both parties, after completion of the first year, Annamalai University returns the original certificates to the candidates, which enables them to join another degree when they are doing second year of undergraduation. The judgment of the Full Bench is very clear on the aspect that no candidate/student is entitled to pursue dual degrees simultaneously during the same academic year and demand employment for a particular post. However, in the instant case, there is overlapping of the educational course or period of study, ie, during the final year of B.Litt, the appellant had joined first year in B.Sc (Geography), but the appellant is not claiming any benefit based on B.Litt undergone by her. As stated supra, the dual degrees



obtained during the same academic year is prohibited, but there may be overlapping of courses. Suppose the appellant had undergone B.Litt and thereafter, obtained B.Sc (Geography) and B.Ed degrees simultaneously eventhough the period of the academic year varies, namely, 3 years and 2 years respectively, the respondents would be perfectly justified in rejecting the candidature of the appellant/petitioner as it can be considered that she had undergone both courses simultaneously in the same academic year. The Full Bench has already referred to the decision that is going to be taken by Univeristy Grants Commission for the purpose of approving the dual degrees for which they are going to adopt a new Education Policy, 2020. It has been decided by UGC to review the entire mechanism in the conduct of two degree courses, one through a regular stream as full time course and the other through distance education mode or open university or online in the same academic year. In this case, as B.Litt course has no relevance at all for the purpose of considering the candidature of the appellant/petitioner as she had undergone 10+2+3+2 scheme of study, as long as the candidate is not going to claim any benefit based on B.Litt course, there is no hurdle for the respondents herein to appoint the appellant/writ petitioner as she is one among the 16 candidates selected as against 400 vacancies.

9. The Full Bench, in its judgment, has also underscored the importance of teaching profession and the significance of role of a teacher in moulding the children to become better citizens. The relevant portions at paragraph No.24 and 25 are usefully extracted hereunder:

"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 benefitter. 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 attitude 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."

It would not be out of context to refer to the judgment of the Hon'ble Apex Court in the case of *Avinash Nagra Vs. Navodaya Vidyalaya Samiti and others*, reported in 1997(2) SCC 534, wherein it has been held as under:

"Before answering the question whether the order terminating the services of the appellant in terms of his appointment letter is in violation of the Rules or the principles of natural justice, it is necessary to consider the need for the education and the place of



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the teacher in that behalf. Article 45 of the constitution enjoins the State to endeavour to provide free and compulsory education to all children, till they complete the age of 14 years. The Supreme Court has held that right to education is a fundamental right and the State is required to organise education through its agencies or private institutions in accordance with the law and the regulations or the scheme. The State has taken care of service conditions of the teacher and he owes dual fundamental duties to himself and to the society. As a member of the noble teaching profession and a citizen of India he should always be willing, self disciplined, dedicated with integrity to remain ever a learner of knowledge, intelligently to articulate and communicate the imbibe in his students, as social duty, to impart education, to bring them up with discipline, inculcate to abjure violence and to develop scientific temper with a spirit of enquiry and reform constantly to rise to higher levels in any walk of life nurturing constitutional ideals enshrined in Article 51 A so as to make the students responsible citizens of the country. The quality, competence and character of the teacher are, therefore, most significant to mould the institutions and to sustain them in their later years of life as a responsible citizen in different responsibilities."

10. Mahatma Gandhi, the Father of the Nation has stated that "a teacher cannot be without character. If he lacks it, he will be like salt without its savour. A teacher must touch the hearts of his students. Boys imbibe more from the teacher's own life than they do from books. If teachers impart all the knowledge in the world to their students but do not inculcate truth and purity amongst them, they will have betrayed them. ...

.....Dr.S.Radhakrishnan has stated that "we in our country look upon teacher as gurus or, as acharyas. An Acharya is one whose aachar or conduct is exemplary. He must be an example of Sadachar or good conduct. He must inspire the pupils who are entrusted to his care with love of virtue and goodness."

11. It is in this backdrop, therefore, that the Indian society has elevated the teacher as "Guru Brahma, Gurur Vishnu, Guru Devo Maheswaraha". As Brahma, the teacher creates knowledge, learning,



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wisdom and also creates out of his students, men and women, equipped with ability and knowledge, discipline and intellectualism to enable them to face the challenges of their lives. As Vishnu, the teacher is preserver of learning. As Maheswara, he destroys ignorance."

10. It has been brought to the notice of this Court as per the "Monthly Summary for the Cabinet for the month of May, 2020, relating to The Ministry of Human Resources Development, Department of Higher Education, as second item, it is stated under "Events for the month" as hereunder:

"B. Two degree courses simultaneously:

University Grants Commission has approved a proposal to allow students to pursue two degree programmes at the same time. One of the degrees has to be in the regular mode and the other either in open & distance learning or online. A student can pursue two degrees in different streams as well as from different institutions"

11. Therefore, even though we are entirely in agreement with the submission of the learned Special Government Pleader for the respondents that the stream of 10+2+3+2 cannot be violated for the purpose of appointment to a particular post and it is evident from the tabular column extracted supra that there is overlapping of the final year of B.Litt course and first year of B.Sc (Geography), it is made clear that the candidate has not obtained both degrees by studying in the same academic year. Hence, we are of the view that the appellant's candidature can be considered for appointment to the post of B.T. Assistant (Geography).

12. It is not in dispute that after the counselling held on 28.11.2017, the appellant was allotted posting in Government High School, Poochoor, Dharmapuri District. However, she was not appointed only on the ground that she had obtained dual degrees in the same academic year, which has been found to be not so, as could be seen from the pleadings. We therefore expect the respondents to appoint the appellant/writ petitioner within a period three months from the date of receipt of a copy of this order. The appellant shall be paid all the benefits on and from the date of her appointment.



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13. The writ appeal is allowed with the above direction. No costs. Connected C.M.P. is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

nv

To

1. The Director of School Education,
College Road, Chennai -6.
2. The Chief Educational Officer,
Salem District, Salem.

+1cc to M/s.C.S.Associates, Advocate, S.R.No.10490

+1cc to the Government Pleader, S.R.No.10783

W.A.No.2928 of 2019

SPD(CO)

RLP(25/03/2022)