



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.6454 of 2015

and

M.P(MD)Nos.1 to 3 of 2015

and

W.M.P (MD)No.8842 of 2017

R.Reena Rose

... Petitioner

vs

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Department of Collegiate Education,
Fort St.George,
Chennai-09.

2.The Director of Collegiate Education,
Chennai-600 006.

3.The Secretary,
Teachers Recruitment Board,
EVK Sampath Maligai,
DPI Compound, College Road,
Chennai-06.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned selection list under direct recruitment for Assistant Professors in Government Arts and Science Colleges under Tamil Nadu Collegiate Educational Service-2012 for the subjects of Computer Science(Code-D12) and Computer Application (Code-D14) and quash the same as illegal and consequently, to direct the Respondent No.3 to prepare a fresh selection list of candidates on merits in the backlog vacancies first and in the current vacancies next for the subjects of Computer Science (Code-D12) and Computer Application (Code-D14).

For Petitioner : Mr.V.Vijay shankar, Advocate
For Respondents : Mr.N.Ramesh Arumugam
Government Advocate(Civil side)
for R1 and R2
Mr.A.L.Kannan for R3

O R D E R

This Writ Petition is filed to quash the selection list for the post of Assistant Professors in Government Arts and Science College under Tamil Nadu Collegiate Educational Service 2012 for the subjects of Computer Science (Code-D12) and Computer Application (Code-D14) and consequently, the third respondent has prepared a



list of candidates on merits in the backlog vacancies first and current vacancies next for Computer Science.

2.The petitioner has completed his regular schooling up to Higher Secondary Course, then had studied B.Sc., and M.Sc., in Computer Science and M.Phil., in Computer Science. The petitioner also had completed Ph.D. in Computer Science and passed in State Eligibility Test (SET) in the month of October 2012. The petitioner was working at St. Jude's College at Thoothur, Kanyakumari District from 01.09.1999 to 31.08.2009 as a Lecturer in Computer Science and from 03.09.2009 to till date, in St. Xavier's Catholic College of Engineering, Kanyakumari District.

3.The third respondent issued a Notification for the year 2012, calling for application for direct recruitment to the post of Assistant Professor. The petitioner applied for the post of Assistant Professor in Computer Science and has attended the certificate verification on 02.12.2013. The petitioner's teaching experience from 2006 to 2013 was taken up and he was awarded 14 marks for teaching experience in addition to the 6 marks for qualification, but the petitioner's name was not in the list that was published on the website for verification.

4.The petitioner came to know that he was awarded only 9 marks in addition to the marks for qualification and the respondent has not counted the teaching experience from 2009 to 2012 at St. Xavier's Catholic College. Aggrieved over the same, the petitioner had filed a writ petition in W.P. (MD) No.11052 of 2014 and while the petition was pending, the petitioner was awarded marks for the teaching experience and the writ petition has become infructuous. Thereafter, the third respondent called the petitioner for the interview on 26.11.2014 and the petitioner was awarded six marks out of ten marks in the interview. Therefore, the petitioner secured 26 marks out of 34 marks. The third respondent has published the provisional selection list and on perusal of the list, the petitioner alleges that among the candidates who had applied for both the subjects like Computer Science and Computer Application, some have been included on top in both the list of candidates after interview. But the 3rd respondent at his whims and fancies included in the selection list for the subject of Computer Science and the petitioner have been eliminated from the selection list for the subject of Computer Science. The petitioner states that there are 16 back log vacancies in MBC Category for the subject of Computer Science and five backlog vacancies for the subject of Computer Application.

5.The third respondent has filed a counter affidavit stating that the post having to be selected based on the notification No.4 of 2013, dated 28.05.2013 and called for application from eligible candidates for appointment as Assistant Professor in Government Arts and Science Colleges in the Tamil Nadu Collegiate Educational Service for the year 2012. The respondents have followed G.O. Ms. No. 217 Higher Education (F2) Department, dated 13.09.2011, G.O.Ms.No.29 Higher Education (F2) Department dated 05.03.2012 and

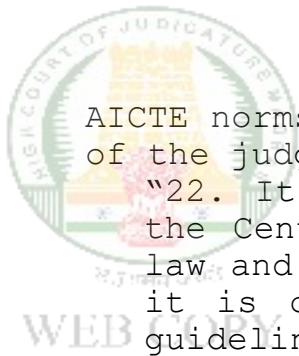


Government letter No.20575 A/F2/2011, dated 15.05.2013. One Thiru A. Chandrasekaran has filed a writ petition in W.P. (MD)No.18186 of 2013 and this Court, vide order, dated 12.07.2013, directed the Teachers Recruitment Board to clarify the candidates by way of notification in the newspaper during the relevant period, the qualification at the relevant point of time can be considered for awarding marks for teaching experience. Corrigendum was issued and the same was clarified. The petitioner was called for certificate verification and thereafter, she was awarded six marks for Educational Qualification and 14 marks for teaching experience. Then the petitioner was called for interview and she was awarded six marks for interview and has secured 26 marks. The specific contention of the respondent is that the petitioner belongs to Most Backward Class (W) category. The last candidates selected in Most Backward Class (G) turn is 26 with date of birth up to 16.06.1976 and the Most Backward Class (w) is 26 marks with date of birth as 28.08.1973. Since the petitioner is junior in date of birth i.e., 25.05.1977, the petitioner could not be considered for selection in Most Backward Class i.e., for Most Backward Class (G) and Most Backward Class (W). The Board has issued provisional selection list of Assistant Professor on 27.01.2015 and the vacancies are filled up. Therefore, the petitioner cannot be granted any place in the selection list.

6. Heard Mr.V.Vijay shankar, learned Counsel appearing for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the first and second respondent and Mr.A.L.Kannan, learned Counsel appearing for the third respondent.

7. The learned Counsel appearing for the petitioner states that the petitioner was qualified as M.Sc., Computer Science and she has applied for both M.Sc. and M.C.A. The petitioner referred to the provisional list for the Computer Application and stated that all the eight candidates listed in the provisional list has obtained marks below 26 and the petitioner has obtained 26 marks. Therefore, the petitioner's plea is that the entire selection list ought to be set aside. The contention of the respondent is that the petitioner has qualified as M.Sc. Computer Science and she is not eligible to be considered for the post of Computer Application, since both are not equivalent. The respondent referred to the G.O.Ms.No.72, wherein, it is stated that MCA is equivalent to M.Sc. But the respondent contended that G.O is silent therefore M.Sc., is not equivalent to MCA i.e., the reverse is not equivalent. Therefore, the stand of the respondent that is M.Sc., Computer Science is not equivalent to MCA. This Court is at loss to understand the submission of the respondent, that the MCA is equivalent to M.Sc., the reverse is not equivalent. The Court is of the considered opinion that the reasoning of the respondent is erroneous.

8. The petitioner referred to a judgment rendered by this Court in M. Chellakrishnavi VS Teachers Recruitment Board and two others filed in W.P.(MD)No. 28040 of 2017 reported in 2018 WLR Volume II 404 and contended that the notification is not in consonance with



AICTE norms. The relevant portion of the judgment is in paragraph 22 of the judgment and the relevant portion is culled out hereunder:
"22. It is settled principle that the regulations framed by the Central Authorities such as the AICTE have the force of law and are binding on all concerned... In view of the above, it is clear that the State Government cannot lay down any guidelines or policies in conflict with the Central Statute or the standards laid down by the Central body like AICTE, therefore the qualifications fixed by the AICTE are binding on the State Government. Hence the State Government cannot insist on equivalent government order especially when no such order is available"

The same issue was considered by the Hon'ble Supreme Court in Parshvanath Charitable Trust and others VS All India Council for Technical Education and others reported in (2013) 3 SCC 385 and this judgment is followed in the above judgment rendered in Chellakrishnavi's case.

9.AICTE has specifically prescribed the qualification for the post of Assistant Professor and the relevant portion is extracted hereunder:

S. No.	Cadre	Prescribed Qualifications and Experience
1	..	
2	Assistant Professor Qualification and experience for candidates from teaching Qualification & Experience for candidates from Industry & profession	Ph.D. Degree with First Class at Bachelor's or Master's level in Computer Engineering / Computer Technology or Ph.D. Degree in any relevant area of Computer Science / Information Technology with first class Masters degree AND 2 years experience in Teaching / industry / research at the level of lecturer of equivalent. Such candidates will be required to obtain Ph.D. degree within a period of 7 years from the date of appointment as Assistant Professor Candidates from Industry / Profession with First Class B.E. / B.Tech. in Computer Science / Information Technology / M.Sc. (Comp. Sc) / M.Sc. (IT) MCA degree AND Professional work experience of 7 years in relevant industry. Such candidates will be required to obtain Ph.D. degree within a period of 7 years from the date of appointment as Assistant Professor



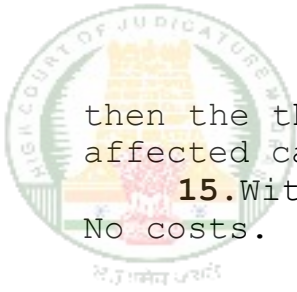
10.It is stated that first class in Computer Science are eligible to appoint as Assistant Professor. The contention of the respondents are that the notification issued for recruitment states that first class in Master Degree in Computer Application alone are eligible for the post of Assistant Professor. The similar issue was considered by this Court in the judgment stated supra, where, it has been stated that initially Teachers Recruitment Board has issued a notification for the post of Lecturers and this Court states that the State Government is estopped from prescribing different educational qualification for appointment to the post of Lecturers in Diploma level Government Polytechnic, other than that of the educational qualification prescribed by the AICTE.

11.Therefore, following judgments stated supra, this Court is of the considered view that a notification issued by the third respondent is not inconsonance with AICTE. The contention of the respondent is that the said notification was not challenged at the earliest point of time, this Court is rejecting the plea of the respondents. Consistently, the third respondent has issued notification without following the AICTE norms. In the year 2013 recruitment, the respondent has issued a notification without following the qualification prescribed by the AICTE and again in the year 2017 notification also the third respondent has committed the same mistake. In Chellakrishnavi's case the Notification No. 6 / 2017 was put to challenge and the Hon'ble Court has set aside the Notification issued in 2017. Therefore, a mistake cannot be consistently followed by the third respondent. Therefore, the said objection by the third respondent is rejected.

12.When the case came up for hearing on 03.01.2022, this Court directed the second respondent to state any vacancies are available in Kanyakumari District. The second respondent in reply has submitted that in Surrandai Government Arts and Science College, there are five vacancies available and this Court is directing the second respondent to grant appointment to the petitioner in the said vacancies available in Surrandai. It is made clear that this Court is not setting aside the selection list but only directing the 2nd respondent to grant appointment order to the petitioner in the Surrandai Government Arts and Science College. The said exercise shall be carried out within a period of three weeks from the date of receipt of the copy of the order.

13.The petitioner prayed to grant monetary and service benefits from the date of the other candidates. Under service jurisprudence the monetary benefits and service benefits are eligible from the date of the appointment order and not prior to the appointment order. Therefore, the prayer of the petitioner to grant the monetary and service benefits earlier to the date of appointment order is rejected.

14.The third respondent is consistently following the wrong prescription of the qualification, which is not in accordance to the qualification prescribed by the AICTE. The third respondent is also directed to correct the mistake with immediate effect. If continued



then the third respondent would be liable to pay compensation to the affected candidates.

15.With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Deputy Registrar (ACCOUNTS)

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/ /2022

Sub Assistant Registrar(CS)

jbr

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.

To

- 1.The Principal Secretary,
The State of Tamil Nadu,
Department of Collegiate Education,
Fort St.George,
Chennai-09.
- 2.The Director of Collegiate Education,
Chennai-600 006.
- 3.The Secretary,
Teachers Recruitment Board,
EVK Sampath Maligai,
DPI Compound, College Road,
Chennai-06.

+1 CC to M/s.V.VIJAY SHANKAR, Advocate (SR-401[F] dated 05/01/2022)

+1 CC to M/s.SPL.GP (SR-590[F] dated 06/01/2022)

**Order made in
W.P. (MD)No.6454 of 2015
05.01.2022**

RS (17.02.2022) 6P-6C