



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.17903 of 2017

and

W.M.P. (MD) .Nos.14422, 14423 and 14424 of 2017

G.Pandiyammal

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Department of School Education,
Fort St.George,
Chennai - 9.

2.The Chairman,
Teachers Recruitment Board,
BVK Sampath Maligai,
DPI Compound,
College Road,
Chennai - 600 006.

3.The Registrar,
Bharathidasan University,
Tiruchirappalli.

... Respondents

Prayer : Writ 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 on the file of the first respondent in connection with the impugned Clause 16 of Resolution No.3 of the Government Order in G.O.Ms.No.72, Higher Education (K2) Department dated 30.04.2013 and consequential impugned order of rejection passed by the second respondent vide his official website in proceedings No.Nil dated Nil and quash the both as illegal, arbitrary and unconstitutional and consequently direct the first and second respondents to appoint the petitioner as Post Graduate Assistant in Physics in any Government Higher Secondary School based on the provisional selection list for certificate verification as per the amended Special Rules of the Tamil Nadu Higher Secondary Education Service vide G.O.Ms.No.1622, Education (HS2) Department dated 21.10.1988 within the time limit that may be stipulated by this Court.



For Petitioner : Mr.G.Thalaimutharasu
For R-1 : Mrs.D.Farjana Ghoushia,
Special Government Pleader.
For R-2 and R-3 : Mr.V.R.Shanmuganathan

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ORDER

The present Writ Petition has been filed to quash the impugned Clause 16 of Resolution No.3 of the Government Order in G.O.Ms.No.72, Higher Education (K2) Department dated 30.04.2013 and consequential impugned order of rejection passed by the second respondent and consequently direct the first and second respondents to appoint the petitioner as Post Graduate Assistant in Physics in any Government Higher Secondary School based on the provisional selection list for certificate verification as per the amended Special Rules of the Tamil Nadu Higher Secondary Education Service vide G.O.Ms.No.1622, Education (HS2) Department dated 21.10.1988.

2. The brief facts of the case are that the petitioner belongs to SC community and has completed 10th Standard in the year 1995 and 12th Standard in the year 1997 and has studied B.Sc., (Physics) in Government Arts College for Women in the year 2001. Thereafter, she studied M.Sc., Applied Physics (Instrumentation) and M.Phil. (Physics) in Nehru Memorial College and has completed the same in the year 2006. Thereafter, the petitioner completed B.Ed., and M.Ed., degrees in physics in the year 2009 and 2015. Her name was enrolled in the District Employment Exchange, Pudukkottai in Regn. No. MDP 2006F00022815. The second respondent vide his proceedings in Advertisement No.03/2017 dated 09.05.2017 issued a notification for direct recruitment to the post of PG Assistants and Physical Education Directors Grade-I for the year 2016-2017. The petitioner is having qualification of Post Graduate in Physics and has appeared in the examination and completed successfully by securing 74 marks and has come within the zone of consideration. The petitioner was kept in the Serial No.361 in the Provisional Selection List (Physics). The second respondent vide proceedings dated 11.08.2017 issued a Call Letter for certificate verification. But the petitioner's candidature was not considered for the reasons that M.Sc. Applied Physics (Instrumentation) is not equivalent to M.Sc. Physics. The respondents by invoking G.O.Ms.No.72, Higher Education (K2) Department dated 30.04.2013 has passed such rejection order. The contention of the petitioner is that the said rejection is arbitrary by stating that M.Sc., Applied Physics obtained from the Bharathidasan University is not equivalent to M.Sc., Physics. The petitioner has circulated an additional typed set of papers, wherein, it has been stated that more or less the subject is equal. The petitioner has passed Teacher Recruitment Board examination conducted by the second respondent for the post of PG Assistant in



the year 2016-2017. The petitioner relied on the amended Special Rules for Higher Secondary Teachers service in G.O.Ms.No.1622, Education (HS2) Department dated 21.10.1988 and claims that the rejection is against the said Special Rules.

3. The second respondent has filed a counter stating that the respondents are only the recruiting authority. After selection, the same will be submitted to the respective appointing authorities. The appointing authorities has claimed that a post of P.G Assistant Physics is vacant and has submitted their requirement as any Post Graduates with Physics is necessary for the appointment. The Board conducted the written Competitive Examination for direct recruitment of 3375 Post Graduate Assistants and Physical Education Directors Grade-I on 02.07.2017. The marks obtained by all the candidates who have appeared in the written examination was released by the Board. The list of candidates to be called for Certificate Verification in the ratio of 1:1. On perusal of the records, during Certificate Verification, it was found that the petitioner has completed M.Sc., Applied Physics and through G.O.Ms.No.72, M.Sc., Applied Physics was not equivalent to M.Sc., Physics as per Serial No.16 in Resolution No.3 and the same is extracted hereunder:

"c) Equivalent Qualification: If a candidate claims that the educational qualification in the subject possessed by him/her is equivalent to, though not the same, as those prescribed for the appointment, he/she has to produce the subject equivalence G.O. issued by the Government of Tamil Nadu at the time of Certificate Verification."

4. The said equivalency was also incorporated in the notification. As per Section 25 of Tamil Nadu Government Servants (Conditions of Service) Act, 2016, it is stated as under:

"25. No person shall be eligible for appointment to any service, class, category or grade or any post borne on the cadre thereof unless he,--

(a) possesses such special qualifications and has passed such special tests as may be prescribed in that behalf in the special rules; or

(b) possesses such other qualifications as have been declared to be higher than or equivalent to the said special qualifications or special tests--

(i) by the Government in consultation with the Committee constituted under the Chairmanship of the Chairman, Tamil Nadu Public Service Commission for the purpose, in cases where the appointment has to be made in consultation with the Commission; and

(ii) by the Government or by the appointing authority with the approval of the Government in other cases."

The Government has formulated the Special Committee to go



into all these issues. The second respondent has no power to see any qualification and it is purely dependent upon the Equivalence Committees report. Therefore, the respondents prayed to reject the Writ Petition.

5. Heard Mr.G.Thalaimutharasu, learned counsel for the petitioner and Mrs.D.Farjana Ghoushia, learned Special Government Pleader for the first respondent and Mr.V.R.Shanmuganathan, learned counsel for the second and third respondents.

6. On perusing the Advertisement No. 03 / 2017 dated 09.05.2017, it is seen that the respondents have called for candidates to the post of P.G. Assistant for the Tamil Nadu Higher Secondary Educational Service. There is no specific claim for M.Sc. (Physics). The relevant portion is extracted hereunder:

S. No.	Name of the post & Scale of Pay	Service	Post Code	No. of Vacancies
1	Post Graduate Assistants / Physical Education Directors Grade - I Rs.9300-34800 - Grade Pay Rs. 4800	Tamil Nadu Higher Secondary Educational Service	17PG	1663*

b) Educational Qualifications:

1. Candidates should possess a Post Graduate degree in the relevant subject with B.Ed. degree awarded by the University or Institution recognized by the University Grants Commission. The qualification prescribed above for this post should have been obtained by passing the required qualification after completing 10th and H.Sc. (or its equivalent) followed by an U.G. Degree.

On perusing the advertisement it is seen that the respondents have called for the P.G. Assistant to take class for the Higher Secondary Class. There is no specific mention that the P.G. Assistant should possess M.Sc., Physics and not M.Sc. Applied Physics. Therefore this Court is of the considered opinion that the respondents is incorrect in rejecting the petitioner claim.

7. On perusing G.O.M.s.No.1622, it is seen that the candidate who is possessing P.G Degree with general is eligible and P.G with special branch is also eligible. The relevant portion is extracted hereunder:



"Provided that the Post Graduate degree holders in the Special Branch of a subject can be considered eligible to be appointed in the Higher Secondary School to teach the relevant subject in the General Branch"

When the proviso specifically states that the PG holders in the Special Branch of a subject can be considered, therefore, there is no rhyme or rhythm to reject the M.Sc., Applied Physics.

8. It is seen after the amendment of Tamil Nadu Government Servants (Condition of Service) Act, 2016, the Government has every power to consult the Committee which is constituted under Section 25 (b) (1). Therefore, this Court is directing the first respondent to place all the papers before the New Committee which is constituted under Section 25 (b) (1) and thereafter come to the conclusion. As per the Full Bench Order, the judgment rendered ***in the case of Nadar Thanga Shubha Laxman, A Vs. The State of Tamil Nadu reported in 2014 (3) CTC 433*** is that if any equivalency has to be declared, the same is dated back to the date of passing the degree. Therefore, if once equivalency is declared, then the petitioner's candidature shall be considered with the retrospective effect.

9. Therefore the respondents are directed to place the issue before the New Committee which is constituted under Section 25 (b) (1) and thereafter come to the conclusion. If the Committee is granting equivalency, then the same is dated back to the date of passing the degree, then the petitioner is eligible for the post. The said exercise shall be considered within a period of 12 weeks from the date of the receipt of the copy of the order.

10. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Nsr

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 School Education,
Fort St.George,
Chennai - 9.

2.The Chairman,
Teachers Recruitment Board,
BVK Sampath Maligai,
DPI Compound,
College Road,
Chennai - 600 006.

3.The Registrar,
Bharathidasan University,
Tiruchirappalli.

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-16009[F] dated
01/04/2022)

+1 CC to M/s.SPL GP (SR-16309[F] dated 04/04/2022)

**W.P. (MD) .No.17903 of 2017
31.03.2022**

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