



W.A.No.1628 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA
KURUP

W.A.No.1628 of 2018

1.The Director of School Education,
DPI Complex, College Road,
Chennai – 6.

2.The Joint Director of School Education (Personnel),
DPI Complex, College Road,
Chennai – 6.

...Appellants

Vs.

S.Bhaskar

...Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 11.12.2017 made in W.P.No.11517 of 2012.

For Appellants : Mr.G.Nanmaran,
Special Government Pleader
For Respondent : Mr.R.S.Anandan
for Ms.K.Gayathri



W.A.No.1628 of 2018

J U D G M E N T

WEB COPY

(Judgment was made by **R.SUBRAMANIAN, J.**)

The Director of School Education is on appeal aggrieved by the order of the writ Court setting aside the proceedings dated 12.04.2012, in and by which, the promotion granted to the respondent as Tamil Pandit on 12.03.2012 was withdrawn on the ground that the petitioner was not qualified.

2) The respondent who was working as a Junior Assistant in the Census Department, on retrenchment, was appointed as Junior Assistant in the education department on 01.03.2004 and his services were regularized on 10.11.2009. The respondent has passed his SSLC (X Standard) in 1980 and thereafter appeared for his Higher Secondary (XII Standard) Examination conducted in April 1982. He was not successful, having failed in Mathematics. However, the respondent completed B.Lit., from Alagappa University in 2007 and also completed M.A. Tamil in 2011. Thereafter, he appeared again in the Supplementary Examination conducted in September 2010 and cleared the Mathematics paper also.



W.A.No.1628 of 2018

3) The Department offered for promotion of clerical staff as teachers provided they had the prescribed qualification and 2% reservation was made for such promotions. The respondent applied for such promotion and he was promoted on 12.03.2012. Subsequently, the Department realized that the promotion of the respondent was not in consonance with the relevant Rules, since G.O.No.107 dated 18.08.2009 which governs the issue specifically provides that only persons who had obtained degrees in Open University system after having passed in the Higher Secondary Examination would be considered to be holding a valid graduation degree to enable them to seek employment in the State's services. The said Government Order reads as follows:-

4. After considering the recommendations of the Equivalence Committee, the Government has decided to accept the same and ordered that the Diploma/ Degree/ Post Graduate degree awarded by Open Universities after passing Secondary School Leaving Certificate (SSLC) and Higher Secondary Course (HSC) is only eligible for appointment/ promotion in Government services.



W.A.No.1628 of 2018

4) Since it was found that the promotion given to the respondent was in violation of the Government Order, the Department recalled the order of promotion on 12.04.2012. It is this order which is subject matter of challenge before the writ Court.

5) The writ Court had allowed the writ petition relying upon the judgment in *J.Joseph Irudayaraj Vs. Joint Director of School Education, Chennai*. Though the writ Court referred to the judgment of the Hon'ble Supreme Court in *Annamalai University Vs. Secretary to Government* reported in (2009) 4 SCC 590, it was sought to be distinguished on the ground that it related to the Post Graduate degree obtained through Open University system without obtaining Under Graduate degree.

6) The learned Special Government Pleader would contend that the issue involved is covered by the judgment of the Division Bench of this Court in *The Chairman, Teachers Recruitment Board Vs. A.Valarmathi and others* in W.A.Nos.1496 to 1498 of 2015 dated 21.08.2018 to which one of us (Hon'ble Mr.Justice R.Subramanian) was a party. In the said



W.A.No.1628 of 2018

judgment the Division Bench had considered the issue relating to eligibility fixed by the Teachers Recruitment Board. As per the Rules, the qualification for secondary grade teacher is a graduate in any of the subjects with B.Ed., or B.Lit.,. Such graduation must have been obtained after completion of 12 years of regular school education and having secured a pass in Higher Secondary School Examination.

7) Various attempts have been made by persons to secure employment as teachers by obtaining degrees in different shortcut methods. All these methods were dealt with by this Court in ***R.Thirunavukkarasu and others Vs. The State of Tamil Nadu*** reported in ***2012 (5) CTC 129***, wherein, the shortcut methods were culled out and it was held that these degrees obtained through shortcut methods will not be valid for securing public employment.

8) Hon'ble Mr. Justice.V.Ramasubramanian, who authored the judgment had held that no student will be eligible for first degree, unless he had completed 3 years course. The students cannot seek admission to



W.A.No.1628 of 2018

Masters course in any discipline unless he had successfully pursued the first degree of 3 years course. Wherever a degree course of a duration of less than 3 years was in existence at the time when the 1985 Regulations were promulgated, these institutions can award degrees of a duration of 2 years, only as a transitory measure. However, these persons will be eligible for admission to a Master's Course only if they undergo a one year bridge course. The learned Judge also went into the Statutory Rules and concluded that the qualification for BT Assistant cannot be diluted by the Court in order to accommodate the persons who are not otherwise qualified.

9) The same learned Judge in ***S.Jagadeeswari Vs. The Chairman, Teachers Recruitment Borad, Chennai and another*** in ***W.P.No.30299 of 2012*** held that simultaneous acquisition of degrees or acquisition of lower qualification after higher qualification (Reverse degrees) cannot be recognized as proper qualification for appointment as BT Assistant. The judgment in ***S.Jagadeeswari*** cited *supra* was affirmed in WA.No.845 of 2013 by a Division Bench of this Court.



W.A.No.1628 of 2018

10) Yet another Division Bench of this Court in ***Chairman, TRB***

and another Vs. Kanimozhi had held that unless a candidate had obtained a Bachelor's degree by going through the regular education in 10+2+3 System he or she will not be qualified for appointment as a Secondary Grade Teacher. The impact of University Grants Commission Regulations which recognize these degrees issued by the Open Universities was also considered by the Division Bench. After referring to all the above details, the Division Bench in ***The Chairman, Teachers Recruitment Board Vs. A.Valarmathi and others*** cited *supra* had observed as follows:-

19. We had extracted the qualifications of the respondents. The qualifications can be tabulated as follows:

Name	Case No.	Qualification			
		X	XII (HSC)	Bachelors Degree	B.Ed.,
Valarmathy	W.A.No.1496/2015	1992	Failed in one subject. (Cleared Mathematics paper in 2002)	1996	2010
Pushpalatha	W.A.No.1497/2015	2002	Passed HSC in 2011	2009	2012
Devasena	W.A.No.1498/2015	1994	Failed in Mathematics	2011	2013



WEB COPY



W.A.No.1628 of 2018

20. *From the qualifications extracted above it could be seen that none of the respondents have satisfied the requirement of the educational qualifications prescribed under the advertisement dated 22.05.2013. The advertisement very clearly states that the respondents should have obtained a bachelors degree from a recognized University under 10+2+3 pattern along with a bachelors degree in Education. While the respondent in W.A.No.1498 of 2015 has not even attempted to complete Higher secondary the respondents in W.A.Nos.1496, 1497 of 2015 have completed higher secondary course after having obtained their bachelors degree.*

21. *Such a reverse qualification has been held to be invalid in **R.Tirunavukkarasu** case as well as in **Kanimozhi** case cited supra. We are in agreement with the views of the Division Bench as well as the learned Single Judge in **R.Tirunavukkarasu** case. We must also point out that the learned Single Judge in the orders impugned in these appeals had only followed the judgment of Justice Hariparandhaman in W.P.No.13054 of 2010 batch case. The said judgment has been considered by the*



W.A.No.1628 of 2018

*Division Bench in **Kanimozhi** case and has been specifically overruled.*

11) Mr.R.S.Anandan, learned counsel appearing for the respondent would vehemently contend that the amendment to the Rules was effected only in 2014 and therefore, though it is made retrospective, it cannot take away the vested right that had accrued to the respondent.

12) We are unable to accept the said submission. The G.O.No.107 was introduced in the year 2009 itself. The respondent was promoted on 12.03.2012. But, the promotion was withdrawn within a month on 12.04.2012. Therefore, we do not think that any right would accrue to the respondent. The amendment introduced in the year 2014 is made specifically retrospective from the year 2009, that is from the date of issuance of G.O.No.107 dated 18.08.2009. Therefore, unless the respondent is able to demonstrate that he had requisite qualification viz., a pass in X Standard after undergoing 10 years of regular schooling and a pass in XII Standard after undergoing 2 years of regular schooling and a graduate degree after completing 3 years of course study coupled with B.Ed., or B.Lit., is alone be entitled to employment as a teacher.

9/12



W.A.No.1628 of 2018

WEB COPY

13) Admittedly, the respondent has not passed in XII Standard before he had completed his degree. In fact, the respondent has completed XII Standard only on 09.11.2010 by appearing in supplementary examination after having obtained the graduate and the B.Lit., degree. It is this practice of reverse qualification which was deprecated by this Court in *R.Thirunavukkarasu and others Vs. The State of Tamil Nadu*, cited *supra*, which was also affirmed by the Division Bench.

14) Hence, we are unable to sustain the order of the writ Court, the order of the writ Court is set aside and the writ petition is dismissed. The writ appeal is **allowed**. No costs.

(R.S.M., J.) (S.S.K., J.)
01.02.2023

dsa
Index :Yes
Internet :Yes
Neutral Citation :Yes
Speaking order



W.A.No.1628 of 2018

To

WEB COPY

1. The Director of School Education,
DPI Complex, College Road,
Chennai – 6.
2. The Joint Director of School Education (Personnel),
DPI Complex, College Road,
Chennai – 6.



WEB COPY



W.A.No.1628 of 2018

R.SUBRAMANIAN, J.
and
SATHI KUMAR SUKUMARA KURUP, J.

dsa

W.A.No.1628 of 2018

01.02.2023