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W.A.No.1602 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2023

CORAM :

**THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ**

**W.A.No.1602 of 2022 &
C.M.P.No.10658 of 2022 &
C.M.P.No.7082 of 2023**

The Teachers Recruitment Board,
Rep. by the Chairman,
4th Floor, EVK Sampath Building,
DPI Compound College Road,
Chennai - 6.

... Appellant

Vs.

1.D.Sivaranjani

2.State of Tamil Nadu,
Rep. by its Secretary,
Education Department,
Fort St. George,
Chennai -600 009.

3.The Director of School Education,
DPI Compound, College Road,
Chennai - 600 006.

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 08.04.2022 made in Rev.Appl (W)No.660 of 2017.



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For Appellant : Mr.R.Neelakandan
Additional Advocate General assisted
by Mr.K.Sathishkumar

For Respondents : Mrs.S.Ambigapathi for R-1
Mrs.Mythrey Chandru
Special Government Pleader
for R-2 and R-3

JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

This writ appeal is filed by the appellant / Teachers Recruitment Board, against the order dated 08.04.2022 passed by the learned Judge in Rev.Appl (W) No.660 of 2017.

2. Originally, the first respondent herein applied for the post of Post Graduate Assistant (English), pursuant to advertisement no. 3/2012, dated 28.02.2012. She appeared for the written examination and scored 95 marks out of 100, meeting out the eligible cut-off marks and hence, she was called for certificate verification. Thereafter, the result was published on 12.12.2012, however, she was not selected for appointment. Feeling aggrieved, the first respondent filed W.P.No.35179 of 2012 before the writ court.



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3. The writ petition was contested by the appellant / Board by filing counter affidavit, wherein, it was *inter alia* stated that on scrutiny of the records / certificates pertaining to the first respondent / writ petitioner, it was found that she had acquired two degrees viz., M.A (English) and B.Ed., simultaneously (in the same year) and hence, she was treated as ineligible for selection to the post of Post Graduate Assistant (English). The learned Judge, after hearing both sides, held that the first respondent had not undergone two degrees simultaneously and accordingly, allowed the writ petition on 01.02.2017.

4. Since the aforesaid order of the learned Judge was not complied with, the first respondent / writ petitioner filed contempt petition No.1461 of 2017, whereas, the appellant / Board filed Rev.Apl(W)No.660 of 2017 to review the same. Both the matters came up for hearing jointly on 08.04.2022 and the learned Judge passed the following order:

"According to the petitioner, the Transfer Certificate issued by the College has been genuine and in support of his contention, she has produced the Certificate received from Annamalai University, vide letter dated 23.03.2022, stating that the petitioner, after completion of one year, was issued with Transfer Certificate on her request with Tc.No.15 dated 09.07.2007 and later during the academic year 2008-2009, she was readmitted to II year M.A. English Degree Programme dated 19.08.2008 and during the one year, she has undergone B.Ed., (One Year Course) in Arunachala College of Education, Tiruvanamalai.

2. However, no substantive material has been placed by the respondents to claim that the said certificate is not genuine.

3. In such circumstances, list the matter on 13.04.2022 finally to report compliance, failing which statutory notice will be issued to the respondents".



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Challenging the above order, the appellant/Board has come up with this writ appeal.

5. The learned Additional Advocate General appearing for the appellant / Board would submit that in the regular stream of M.A. Degree, the duration of course is two years. After completing the first year, if any candidate discontinued the studies in the mid-way of two year course, he/she will be treated as a dropped candidate and he / she will not be allowed to continue in the 2nd year degree course and write the final examination and that, he/she will be treated only as a fresh candidate or as a new entry for 1st year degree course. Adding further, the learned Additional Advocate General submitted that when the duration of course for M.A. Degree is fixed as two years for both regular and for distance mode, the first respondent undergoing M.A. degree course for three years in distance mode and acquiring B.Ed. degree on discontinuation after a period of one year with that of three years period, cannot be considered as eligible for selection to the post in question. It is also submitted that in the normal course of study, transfer certificate is issued to the candidates, on completion, by the college or in the University, where they have pursued the degree course, so as to enable them to join a new course or to do higher studies in the same college or elsewhere, and without transfer certificate for completing the former course, they will not be allowed to do another course. In this case, the first respondent



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after completing the 1st year, discontinued her M.A. (English) degree course and obtained transfer certificate in the year 2006-07. Thereafter, she joined B.Ed course in the year 2007-08 and on completion of the same, she rejoined 2nd year of M.A. degree course in the year 2008-09 and completed the course. Thus, the first respondent obtained two degrees simultaneously, which cannot be said to be valid and declared as qualified for appointment to the post in question.

6. The learned Additional Advocate General appearing for the appellant / Board would further contend that as per G.O. Ms No. 720, Higher Secondary Department dated 28.04.1981, as amended by G.O. No. 361, School Education Department dated 31.12.1999, the qualification for the post of Post Graduate Assistant is that the candidates should possess M.A./M.Sc./M.Com. in the relevant subject with B.Ed. and they should have studied the same subject in Bachelor's degree and Master's degree both for academic subjects and languages; and all the degrees should be obtained from UGC/NCTE recognized universities. Further, the candidates who have undergone the course of study under the pattern specified in G.O.(Ms.)No.107, Personnel and Administrative Reforms (M) Department, dated 18.08.2009 and G.O.Ms.No. 242, Higher Education Department dated 18.12.2012, are eligible to be appointed as teachers and the patterns of study, as mentioned in the said G.Os, are 10+2+3+1+2, 10+2+3+2+1, 10+3+3+1+2, 10+3+3+2+1, 11+1+3+1+2 and 11+1+3+2+1.



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That apart, G.O. Ms.No.65, P & AR (S) Department, dated 02.07.2014, amending the Rules in G.O.Ms.No.107 dated 18.08.2009, clearly states that the qualification prescribed for the post of Post Graduate Assistant should be in the pattern of 10+2+3+2 (or) 10+2+3+3. But, the first respondent has not completed the course as per the patterns prescribed by the said orders and therefore, she is not eligible for selection.

7. Continuing further, the learned Additional Advocate General appearing for the appellant / Board would contend that the Registrar of the University of Madras, in his letter dated 12.01.2011, addressed to the Chairman of the Teachers Recruitment Board, clearly stated that the simultaneous completion of undergraduate degree and B.Ed. in the same academic year, through open university and regular course from different universities, has not been recognized as valid so far; and that, it is not permissible for a candidate to obtain both undergraduate degree and B.Ed. concurrently within the same academic year. Applying the same to the present case, wherein, the first respondent pursued both M.A. (English) through distance education and B.Ed. in a regular stream, during the academic year 2007-2008, her eligibility for final selection is questionable, as she falls within the category mentioned by the Registrar and is subject to the limitations set forth by the recognized guidelines. Hence, the candidature of the first respondent was not considered for selection to the Post of



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Post Graduate Assistant. However, the learned Judge erred in allowing the writ petition in favour of the first respondent / writ petitioner, by order dated 01.02.2017. When the same was sought to be reviewed by the appellant / Board in the review application, the learned Judge did not consider the same. Finding no option, the appellant / Board is before this court with the present writ appeal. Stating so, the learned Additional Advocate General prayed for appropriate orders in favour of the appellant / Board.

8. Per contra, the learned counsel appearing for the first respondent would contend that the first respondent did not obtain both the postgraduate degree and B.Ed. concurrently within the same academic year and she does not fall within the category outlined in the communication dated 12.01.2011 sent by the Registrar of the Madras University and the Government Orders referred to above and therefore, her eligibility for final selection should not be questioned by the appellant / Board. The learned counsel further submitted that it is incorrect to state that once a Transfer Certificate is issued, a fresh admission must be sought, and re-admission with the same T.C. is not permissible. The learned counsel also referred to the certificate issued by the Directorate of Distance Education, Annamalai University, dated 23.03.2022 which clarified the timeline of the first respondent's educational journey and as per the same, the first respondent joined the M.A. (English) during the year 2006-2007 and after completion of one year,



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on her request, transfer certificate was issued and later, during the year 2008-09, she was readmitted to 2nd year M.A. English degree programme and completed the same. In the mean while, she joined the B.Ed. course during the year 2007-2008, as evident from the certificate dated 24.03.2022 issued by Arunachala College of Education, Tiruvannamalai. Therefore, the learned counsel submitted that the first respondent's educational trajectory aligns with the requirements and does not violate any regulations or orders issued by the competent authorities. Thus, according to the learned counsel, considering the facts and circumstances of the case, the learned Judge has correctly decided the issue in favour of the first respondent / writ petitioner and the same does not require any interference at the hands of this court. It is also submitted by the learned counsel for the respondent / writ petitioner that in ***the Director of School Education, Chennai, v. S.Prabhu*** (W.A.No.866 of 2015, dated 27.01.2017), a Division Bench of this court considered the claim of a similarly placed person and issued a direction in his favour; and that, the said direction was also complied with by the authorities.

9. Heard the learned Special Government Pleader appearing for the respondents 2 and 3 and also perused the materials available on record.



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10. It is not in dispute that the first respondent / writ petitioner applied for the post of Post Graduate Assistant (English) and she scored 95 out of 100 marks in the written examination and she was called for certificate verification, but she was not selected for the post in question. According to the appellant / Board, she obtained two degrees viz., M.A. (English) and B.Ed degree simultaneously in the same academic year and hence, she was found to be ineligible. The stand so taken was rejected by the learned Judge and the writ petition filed by the first respondent came to be allowed by order dated 01.02.2017, which was sought to be reviewed by the appellant / Board by filing review application, in which, by order dated 08.04.2022, the learned Judge directed the appellant / Board to comply with the order passed in the writ petition and posted the matter for reporting compliance. Therefore, this writ appeal is filed at the instance of the appellant / Board.

11. The main contention of the learned Additional Advocate General appearing for the appellant / Board is that the first respondent's educational qualifications do not meet the prescribed criteria for the post of Post Graduate Assistant. According to him, the first respondent had concurrently acquired two degrees viz., M.A (English) through distance education and B.Ed. in the regular stream, in the same academic year 2007-2008, which cannot be considered as



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valid qualification for final selection to the post in question.

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12. The aforesaid submissions made on the side of the appellant / Board have been stoutly refuted by the learned counsel for the first respondent, stating that the first respondent did not obtain her postgraduate degree and B.Ed. Course within the same academic year and hence, her eligibility should not be questioned by the appellant / Board. The said stand was emphasized by the learned counsel through the certificate dated 23.03.2022 issued by Annamalai University and certificate dated 24.03.2022 issued by Arunachala College of Education.

13. Upon considering the rival contentions, the core issue that comes up for determination of this court is, whether the first respondent had obtained two degrees simultaneously and her academic timeline adheres to the Government orders regarding educational qualifications prescribed for the post of Post Graduate Assistant (English). In this connection, the certificates produced by the first respondent are required to be looked into and the same read as follows:

"Certificate No.DDE/B/2021-2022 dated 23.03.2022 issued by the Director, Annamalai University:

This is to certify that Ms.D.Sivaranjani was admitted to M.A. English Degree Programme with Enrolment No.0130603142 during the year 2006-2007. After completion of the I year, Transfer Certificate was issued on her request with Tc.No.15, dated 09-07-2007.

Later during the academic year 2008-2009 she was Re-admitted to II year M.A. English degree programme dated 19-08-2008 and completed the programme with Tc.No.15, dated 19-06-2014. The above candidate Enrolment No. and Transfer Certificate No. was same both I & II year."



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"Certificate No.ACE/2022/11 dated 24.03.2022 issued by the Principal, Arunachala College of Education, Tiruvannamalai:

This is to certify that Ms.D.Sivaranjani was admitted to B.Ed (One Year Course) with Register No.2821676 during academic year 2007-2008 on producing the Annamalai University M.A., 1st year completed Transfer Certificate (TC) bearing No.15 dated 09.07.2007. Upon successful completion of the B.Ed course, a TC bearing Ser No.07 dated 27.06.2008 was issued from our institution."

A conjoint reading of the above certificate dated 23.03.2022 issued by the Director of Annamalai University, Directorate of Distance Education, Annamalai Nagar, and the certificate dated 24.03.2022 issued by the Principal, Arunachala College of Education, Tiruvannamalai, would reveal that the first respondent initially enrolled in M.A. (English) course in the academic year 2006-07 in Annamalai University and after completion of first year, she discontinued it and joined the B.Ed degree in the year 2007-2008 in Arunachala College of Education; and thereafter, she re-enrolled in M.A. (English) program in the year 2008-2009 in Annamalai University. Thus, the first respondent did not pursue her two degrees in the same academic year, in the opinion of this court.

14. The appellant / Board cited various Government Orders with respect to the educational qualifications, patterns of study, etc. required for selection to the post in question. They also referred to the letter dated 12.01.2011 addressed to the Chairman of Teachers Recruitment Board, in which, it was specifically stated that simultaneous completion of an undergraduate degree and B.Ed. in the same



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academic year, through a combination of courses from open universities and regular courses from different universities, has not been recognized. However, the case of the first respondent differs from the situation described in the said letter and the government orders. She did not complete her post graduate degree and B.Ed course simultaneously. Initially, she was admitted in M.A. (English) course in the year 2006-07 and after completion of one year, she discontinued the said course and obtained transfer certificate from the University and joined B.Ed course in the year 2007-08 and thereafter, she was readmitted in M.A. (English) program in the year 2008-2009 and as such, she had acquired M.A. (English) and B.Ed degrees sequentially and not simultaneously. It is also important to point out that the appellant/ Board has not produced any material to prove that the certificates produced by the first respondent are not genuine. In such circumstances, the contention made on the side of the appellant / Board for non-consideration of the candidature of the first respondent for appointment to the post of Post Graduate Assistant (English) on the premise that she had obtained two degrees simultaneously, is untenable.

15. At this juncture, it may be useful to refer to the decision of the Apex Court in ***A. Dharmaraj v. Chief Educational Officer, Pudukottai & Ors. [(2022) 11 SCC 692]***, wherein, the appellant pursued B.A. (English) under distance education during January 2012 to December 2014 and successfully



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completed the same. When he was undergoing his study in B.A.(English), the appellant pursued M.A.(Tamil), which was a two year distance education course between the Academic Years 2013-14 and 2014-15. He appeared in the examination for M.A. (Tamil) in May 2014 and May 2015 and successfully completed the same. The promotion of the appellant to the post of B.T. Assistant (English) was challenged on the ground that by obtaining two degrees simultaneously, the appellant has rendered himself ineligible for the post in question, by virtue of Rule 14 which provides that "the teachers who have obtained B.A./B.Sc and B.Ed., during the same academic year shall not be eligible for recommendation". The promotion of the appellant was set aside by the High Court. However, the Apex Court set aside the order of the High Court and categorically observed that the appellant did not concurrently pursue both the degrees in the same academic year and hence, it does not amount to pursuing two degrees simultaneously. The relevant portion of the said decision is extracted hereunder for ready reference:

*"5. Having heard the learned counsel appearing on behalf of the respective parties and on perusal of the judgment and order passed by the learned Single Judge as well as the Division Bench, it appears that the promotion of the Appellant to the post of B.T. Assistant (English) has been set aside by the High Court on the ground that the appellant obtained two degrees namely B.A. (English) and M.A. (Tamil) simultaneously and therefore as per Rule 14 he was ineligible for promotion. **However, considering Rule 14, it can be seen that the bar was against teachers who have obtained B.A./B.Sc./B.Ed degree simultaneously during the same academic year.** In the present case it cannot be said that the*



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appellant obtained the degree of B.A. (English) and M.A. (Tamil) during the same academic year. The appellant pursued his B.A. (English) during January, 2012 to December, 2014. He pursued his M.A. (Tamil) which was a two years distance education course between the academic years 2013- 2014 and 2014-2015. Therefore, as such Rule 14 is not applicable to the facts of the case on hand *stricto sensu*. "

16. In the judgment in ***The Director of School Education, Chennai v. S.Prabhu (W.A.No.866 of 2015 dated 27.01.2017)***, cited on the side of the first respondent, it was held by the Division Bench of this court as follows:

"23.The complete details with regard to those candidates as to how they pursued 2 different courses simultaneously are not brought on record. Except the statement that 7 candidates, who secured better or equal marks like that of the Writ Petitioner, have pursued 2 academic programmes simultaneously, there are no details furnished as to whether they have also dropped out during one particular academic session from any course and then moved on to pursue another course. If at all, any one of those 7 candidates has also dropped out of one academic programme or the other, as was done by the Writ Petitioner, they also deserve to be considered for recruitment to the post of Post Graduate Assistant. We are not confining granting the relief only to the Writ Petitioner because the entire issue is now revolving based upon a principle, but not on the basis of wrongful selection or refusal of selection of the Writ Petitioner alone. It is for the State and the Teachers Recruitment Board to revisit those 7 cases and in case any one of them had also dropped out of the academic programme in the same manner as the Writ Petitioner has done, such candidates also deserve to be considered for recruitment."

Applying the aforesaid legal proposition to the facts of the present case, wherein, the first respondent did not acquire post graduate degree and B.Ed degree,



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simultaneously, in the same academic year, and that, the appellant / Board has not produced any substantive material to prove that the certificates produced by the first respondent are not genuine, this court does not find any ground much less valid ground to allow this writ appeal.

17. Accordingly, this writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[R.M.D,J.] [M.S.Q, J.]
03.10.2023

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Index: Yes / No.

Speaking order/ Non-speaking order

Neutral Citation: Yes / No.



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To

- 1.The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Building,
DPI Compound College Road,
Chennai - 6.
2. The Secretary,
Government of Tamil Nadu,
Education Department,
Fort St. George,
Chennai -600 009.
- 3.The Director of School Education,
DPI Compound, College Road,
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