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W.P.No.13965 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.13965 of 2020
and W.M.P.No.17351 of 2020

S.Stella Mercy Premalatha

...

Petitioner

/vs/

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai – 600 009.

2. The Director of School Education,
DPI Campus, College Road,
Chennai – 600 002.

3. The Chief Education Officer,
Salem District,
Salem.

4. The District Education Officer,
Salem District,
Salem.

5. The Correspondent,
C.S.I.Higher Secondary School,
Salem 636 001.

...

Respondents



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Writ Petition is filed under Article 226 of the Constitution of India to

issue a Writ of Mandamus directing the respondents 1 to 4 to pass orders for granting approval of appointment of petitioner in the regular sanctioned post of P.G.Assistant (Physics) in 5th respondent school with effect from 24.12.2018, based on the representation submitted by the petitioner dated 03.06.2019 with payment of salary from the date of appointment, within a time frame.

For Petitioner	...	Mr.S.Nedunchezhiyan
For Respondents	...	Mr.P.Sanjai Gandhi
		Govt. Advocate

ORDER

This Writ Petition has been filed for the issuance of a writ of mandamus directing the respondents 1 to 4 to pass orders for granting approval of appointment of petitioner in the regular sanctioned post of P.G.Assistant (Physics) in 5th respondent school with effect from 24.12.2018, based on the representation submitted by the petitioner dated 03.06.2019 with payment of salary from the date of appointment, within a time frame.



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2. The petitioner got appointed as P.G. Assistant (Physics) in the fifth respondent minority aided school and the appointment of the petitioner has been sent by the approval of the third respondent. But the approval was returned by stating that the petitioner had acquired M.Sc Physics and B.Ed in one and the same time.

3. According to the learned counsel for the petitioner, the petitioner had completed M.Sc.Physics through regular mode and B.Ed through corresponding mode. He further submitted that a case like petitioner's has been favourably considered in a writ appeal in W.A.No.1098/2012 dated 24.06.2016 in respect of the similarly placed persons. The relevant portion of the said judgment is extracted hereunder:

“ 7. As adverted to earlier, the specific relief sought in the Writ Petition is to recognize the degrees, viz., B.A., and B.Ed., obtained by the Petitioner simultaneously from Periyar University as well as Annamalai University. Of course, it is true that B.A.Degree has been obtained by the Petitioner/Respondent through correspondence course in Annamalai University.

8.In fact, this Court has perused the reply given by the Madras University, wherein it has been simply stated that so far two degrees obtained in the same year have not been recognized. In fact, the Madras University has not specifically stated any Rule, which prohibits recognition”



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4. The petitioner states that the petitioner had completed his B.Sc degree during the academic year 1991-1994 on regular stream and she joined M.Sc. degree between the academic years 1994-1996 under regular stream and completed the course in April, 1996 and he studied B.Ed in the calendar year commencing from 1996 and she finished the course during the month December, 1996.

5. The learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme Court in ***A.Dharmaraj Vs. The Chief Educational Officer, Pudukkottai & ors., in Civil Appeal No.1301 of 2022*** where it is held as under:

“ 5. Having heard the learned counsel appearing on behalf of the respective parties and on persual 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 appellant obtained the degree of B.A.(English) and M.A.(Tamil) during the same academic year. The appellant pursued his



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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 to 2014-2015. Therefore, as such Rule 14 is not applicable to the facts of the case onhand stricto sensu. The degree of M.A.(Tamil) cannot be equated with B.A./B.Sc./ B.Ed.

5.1 Assuming that the subsequent degree obtained by the appellant namely M.a.(Tamil) is ignored, in that case also, considering his degree in B.A.(English) he could have been promoted to the post of B.T.Assistant (English). That both the degrees secured by the appellant cannot be ignored. It is not in dispute that the degree of B.A.(English) was sufficient as per the eligibility criteria for promotion to the post of B.T.Assistant (English). ”

6. The learned Government Advocate submitted that in W.A.No.845 of 2013 dated 07.01.2014 preferred by challenging the order in W.P.No.503 of 2018, it has been held that two degrees obtained by a candidate through open University on regular stream cannot be recognized. But in the above case, it is observed that the appellant's B.Ed or B.A. degree was not recognized by the Madras University. In the case in hand it is not the question of recognition of degree but the degrees have been obtained in the same year through regular stream and through distance mode.



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7. The case of the petitioner cannot be considered as overlapping, despite she had obtained both degrees in one and same academic year.

According to the petitioner, the UGC norms permit that two degrees be done simultaneously, one through regular stream and another through corresponding mode. The petitioner has got the required qualification prescribed for the post of P.G.Assistant and only in view of that she got appointed as P.G.Assistant by the fourth respondent.

8. Hence, I feel it is for the fifth respondent to clarify about these matters and resubmit the file to the third respondent. On such resubmission, the third respondent can consider the proposal of the petitioner without having doubts about the dual degrees obtained by the petitioner and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order.

9. With the above observation and direction, this Writ Petition is disposed. No costs. Connected miscellaneous petition is closed.

10.11.2023

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School Education Department,
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2. The Director of School Education,
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R.N.MANJULA ,J.

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