



W.A.No.1885 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2023

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN

AND

THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

W.A.No.1885 of 2022

and

C.M.P.No.13821 of 2022

1.The Secretary to Government,
College Education Department,
Fort St. George, Chennai - 9.

2.The Director of College Education,
DPOI Compoud, College Road,
Chennai - 6.

3.The Teachers Recruitment Board,
Rep. by Member Secretary,
DPI Compound, College Road,
Chennai - 6.

... Appellants

Vs.

Dr.M.Chandra Mohan

... Respondent

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 03.11.2016 made in W.P.No.33565 of 2014.

For Appellants

: Mr.R.Neelagandan
Additional Advocate General
Assisted by Mr.K.Sathish Kumar

For respondents

: Mr.M.Muthappan



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JUDGMENT

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

This writ appeal is directed by the State against the order dated 03.11.2016 passed by the learned Judge in W.P.No.33565 of 2014. The appellants originally filed an appeal along with an application in CMP.No.13912 of 2019 in WA.SR.No.77224 of 2019 to condone the delay of 904 days in filing the same, which was dismissed by order dated 08.08.2019. Challenging the same, the appellants went on further appeal before the Hon'ble Supreme court by filing S.L.P.(C)No.22378 of 2019 which was entertained as Civil Appeal No.4907 of 2022 and the same was allowed by condoning the delay in filing the appeal and restoring the appeal to the file of this Court, by order dated 25.07.2022, which gave a new lease of life to the matter.

2. The facts leading to filing of this writ appeal, are as follows:-

The respondent/writ petitioner had applied for the post of Assistant Professor in Tamil Nadu Collegiate Educational Service for Government Arts and Science Colleges -2012, pursuant to Notification / Advertisement No.4 / 2013 issued by the third appellant Board on 28.05.2013. It was stated in the notification that the posts will be filled up on the basis of weightage marks to be awarded for (a)Teaching experience (b)Higher Educational qualifications in the subject and (c)marks to be awarded in the interview. The respondent participated



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in the selection process and was awarded 11 marks for teaching experience and 9 marks for qualification and in the interview, he secured 8 marks and the total marks scored by him was 28 marks. Since the cut-off marks of the candidates selected in the GT(G) and BC(G) were 32 and 30 marks respectively, the respondent was not selected for appointment. According to the respondent, the notification prescribed two marks for each year of teaching experience, subject to a maximum of fifteen marks; the respondent had 21 years of service in teaching the physics subject and hence, he was eligible to receive the full marks of 15, but the appellants awarded him only 11 marks. Therefore, the respondent preferred WP.No.33565 of 2014, seeking a writ of declaration, declaring his non-selection for the post of Assistant Professor of Physics in the Government Arts and Science College in T.N. College Education Service by direct recruitment, as null and void and further directing the appellants to award 15 marks for the teaching experience, select the respondent and appoint him as Assistant Professor of Physics and grant him all consequential service and monetary benefits. The learned Judge, by order dated 03.11.2016, allowed the said writ petition, following the earlier orders passed in W.P.No.18186 of 2013 dated 12.07.2013 and W.P.(MD)No.20173 of 2014 dated 02.03.2015, wherein the claim of similarly placed persons for awarding marks by calculating their teaching experience, was considered in their favour. For better appreciation, the relevant passage of the order impugned herein is extracted below:



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"11. In this case, the petitioner has admittedly passed M.Phil Degree in January 1998, which is prior to 2002. Therefore, it is clear that the petitioner has completed M.Phil. Degree even before 31.12.2002 as contemplated under Sl.No.4 which is indicated in the said order of this Court, dated 12.07.2013 in W.P.No.18186 of 2013. Therefore, full marks of 15, ought to have been awarded to the petitioner for the teaching experience for the period ending with 31.12.2002, whereas, he has been awarded only 11 marks, which is evident from the counter affidavit in paragraph 5, which reads as follows:

From	To	Weightage marks awarded
14.06.2006	31.05.2007	2 marks
01.06.2007	31.05.2010	6 marks
01.06.2010	06.09.2010	1 mark
04.08.2012	31.05.2013	2 marks
		11 marks

The petitioner was awarded 9 marks for qualification, 11 marks for teaching experience and total marks scored by him is 20."

In the very same paragraph 5 of the above counter affidavit, the respondents have admitted that during Certificate Verification, the petitioner has produced teaching experience for the following period:

From	To
05.06.2000	05.06.2003
06.06.2003	06.09.2010
06.09.2011	15.09.2013

That being the position, I do not find any justification in awarding only 11 marks to the petitioner for teaching experience from 2006 onwards. Therefore, I am of the opinion that the petitioner is having relevant teaching experience even prior to 2002 and hence, he is entitled for necessary marks for the teaching experience. As per Sl.No.4 in the Corrigendum, dated 02.08.2013, in respect of the qualification prescribed for the teaching experience, he is entitled to get necessary marks for the teaching experience even counted from 31.07.2002 onwards.



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12. In the above context, it is also worthwhile to notice that another Writ Petition in W.P.(MD).No.20173 of 2014 (M.Pottiammal Vs. The Secretary, Higher Education Department, Fort St.George, Chennai and another) was filed by a candidate seeking to award marks for teaching experience as per the order passed in the earlier Writ Petition in W.P.No.18186 of 2013, dated 12.07.2013. In that Writ Petition, the Madurai Bench of this Court, after discussing the earlier order of this Court, dated 12.07.2013 in W.P.No.18186 of 2013, the Notification and Corrigendum issued by the respondents/TRB, has observed as follows by order dated 02.03.2015 in W.P.(MD).No.20173 of 2014 :

"8. A perusal of the corrigendum would show that the same was made as per the direction issued by this court in the above said writ petition. Therefore, we have to see as to whether the corrigendum reflects the very same qualification referred to in paragraph No.20 of the above said order. A comparative reading of paragraph 20 of the order as well as the yardstick for awarding the marks for teaching experience stated in the corrigendum would show that the respondents have miserably failed in extracting serial No.4 as it is in the order passed by this Court in the above writ petition and they have omitted to include the term "M.Phil completed from before 31.12.2002". Therefore, it is evident that by mistakenly omitting to include the term M.Phil completed before 31.12.2002 in Serial No.4, the petitioner was considered under category falling under Serial No.5 and was given only 3 marks. On the other hand, when admittedly the petitioner has passed M.Phil degree in the year 1997 itself and therefore, she has completed the M.Phil before 31.12.2002 as contemplated under Serial No.4 of the order passed by this Court as stated supra, she should have been given marks for teaching experience for the period commencing from 31.07.2002. In this case, it is not done so. The mistake is very evident and the said point raised by the petitioner is not answered by the respondents in the counter as well. Therefore, I am convinced that the petitioner is entitled to be awarded marks for teaching experience by placing her in Serial No.4 of the qualification prescribed. Therefore, I am of the view that the petitioner is entitled to get the teaching experience counted from 31.07.2002 onwards. Accordingly, the writ petition is allowed and the respondents are directed to count the teaching experience of the petitioner from 31.07.2002 onwards and award appropriate marks for the same and consequently, based on the marks obtained by the petitioner, the respondents shall pass appropriate order appointing the petitioner in the post of Assistant Professor, if she is eligible based on the marks so obtained. Such exercise shall be done by the respondents within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed. "



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13. Hence, the above observations of this Court in W.P.(MD).No.20173 of 2014, would apply to the case of the petitioner in the present Writ Petition also. Accordingly, this Writ Petition is allowed. The respondents are directed to count the teaching experience of the petitioner from 31.07.2002 onwards and award appropriate marks for the same and consequently, based on the marks obtained by the petitioner, the respondents shall pass appropriate orders appointing the petitioner in the post of Assistant Professor, if he is eligible based on the marks so obtained. Such exercise shall be done by the respondents within a period of eight weeks from the date of receipt of a copy of this order. No costs."

3. Challenging the above order passed by the learned Judge, the appellants have come up with this writ appeal.

4. The learned Additional Advocate General appearing for the appellants would submit that the corrigendum-III to notification No.04 of 2013 was issued by deleting the words at sl.no.4 "(or) M.Phil completed before 31.12.2002", based on the order passed in W.P.No.18186 of 2013. Adding further, he submitted that originally, there was a mistake in paragraph 20 of the order originally passed in WP.No.18186 of 2013 on 12.07.2013 with respect to at Sl.No.4, which was brought to the attention of the writ court by way of "being mentioned", and the learned Judge, by order dated 23.07.2013, deleted the words "(or) M.Phil completed before 31.12.2002" and directed the Registry to issue a fresh order copy. However, the respondent's counsel cited the original order in WP.No.18186 of 2013 and obtained an order in favour of the respondent in his writ petition.



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Insofar as the another order dated 02.03.2015 passed in W.P.(MD)No.20173 of 2014 filed by one M.Pottiammal which was also referred to in the impugned order, is concerned, the learned Additional Advocate General submitted that the appellants filed a Review Application in Rev.Apl.(MD)No.3 of 2017 as against the same and after a thorough analysis, the learned Judge allowed the Review Application filed by the State and dismissed the contempt petition filed by the petitioner therein. Thus, according to the learned Additional Advocate General, the order passed in the writ petition, which is impugned herein, based on the earlier orders before rectifying the error crept-in, cannot be allowed to be sustained and is liable to be set aside. The learned Additional Advocate General also pointed out that the respondent has already attained the age of superannuation i.e., 60 years in December 2022, and that, if the claim of the respondent is entertained, it would unsettle the settled issue and severely affect the recruitment process, which has attained finality. Therefore, he prayed for allowing this writ petition by quashing the order of the learned Judge.

5. Per contra, the learned counsel appearing for the respondent submitted that the contention made on the side of the appellants that any modification in the selection process will create chaos, is unfounded; and that, it is the duty of the court to ensure that recruitment process has been done in a fair and transparent manner, and any error or irregularity committed therein, must be



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rectified to uphold the principle of justice. Accordingly, the order passed by the learned Judge, after examining the facts and circumstances of the case, is perfectly correct and the same does not call for any interference by this court, according to the learned counsel.

6. Heard the rival submissions and perused the materials available on record.

7. The facts remain undisputed are that the respondent applied for the post of Assistant Professor in Tamil Nadu Collegiate Educational Service for Government Arts and Science Colleges, 2012, pursuant to Notification No.04 of 2013, dated 28.05.2013. The selection process involves two stages. The first stage is that the marks will be awarded to the candidates for teaching experience and qualification, based on the certificates produced along with the application form as per the criteria. Two marks for each year, subject to a maximum of 15 marks will be allotted for teaching experience. As far as the qualification is concerned, maximum 9 marks will be awarded. The candidates with Ph.D. in the concerned subject will be awarded maximum of 9 marks. For possession of M.Phil with SLET/NET, maximum 6 marks will be allotted. The candidates possessing P.G.Degree with SLET/NET will be allotted maximum of 5 marks. Thus, the maximum marks for the qualification is 9. The second stage is that the marks will



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be awarded based on the performance given by the candidates at the time of interview and the maximum of 10 marks will be allotted for the same. For better appreciation, the scheme of selection mentioned in the notification no.4/2013 dated 28.05.2013 is extracted below:

1	For Teaching experience in Universities / Government / aided colleges / Self financing colleges in the approved post including the Teaching experience (in the relevant subject) of the candidates in Medical/Engineering/Law Colleges. (2 marks for each year subject to a maximum of 15 marks)		Maximum
			15 marks
2	Qualification		9 marks
	(a) For Ph.D. in concerned subject	9 marks	
	(b) For M.Phil with SLET/NET	6 marks	
	(c) For PG & SLET/NET	5 marks	
3	Interview		10 marks
	Total		34 marks

8. Subsequently, Corrigendum-II came to be issued on 09.07.2013 with the following modification to the original notification dated 28.05.2013:

"1. Corrigendum issued on 19.06.2013 to the advertisement No.04/2013 published towards direct recruitment of Assistant Professors in Government Arts and Science Colleges is hereby withdrawn.

2. Work experience gained after obtaining minimum eligible qualification plus NET/SLET shall alone be considered for awarding weightage marks. Further work experience obtained during full time Ph.D or any degree, diploma etc., shall not be considered.

...."

9. While so, a similarly situated person like the respondent herein, had filed W.P.No.18186 of 2013 to quash the corrigendum in Notification No.04 of 2013, dated 28.05.2013 and consider his work experience of the Assistant Professors for the purpose of awarding marks for experience as per the original



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notification. When the matter was taken up for hearing, the learned Standing Counsel appearing for the Board represented that they had decided to withdraw clause 2 of the Corrigendum dated 09.07.2013, which pertains to the allotment of marks for teaching experience. In the light of the same, the learned Judge allowed the writ petition on 12.07.2013. While so, it was found that there were no guidelines provided in the notification regarding the determination of teaching experience, and hence, the learned Judge fixed the yardstick for determining teaching experience, in terms of the UGC Regulations / Rules as prescribed by the Government/University. Thereafter, on 23.07.2013, the said writ petition was listed under the caption "for being mentioned", on the ground that there was a mistake in paragraph 20 of the order insofar as Sl.No.4 is concerned. Taking note of the same, the learned Judge deleted the words "(or) M.Phil completed before 31.12.2002" and directed the Registry to issue a fresh order copy. For the sake of reference, the being mentioned order dated 12.07.2013 in WP.No.18186 of 2013 is reproduced below:

"The matter has been listed today at the instance of the learned counsel appearing for the petitioner for being mentioned.

2. It is pointed out by both sides that there is a mistake in paragraph No.20 of the order as far as Sl.No.4 is concerned. It is pointed out that the portion, "(or)" M.Phil completed before 31.12.2002" has to be deleted.

3. Accordingly, the same is deleted.

4. In view of the various corrigendum relating to teaching experience and the filing of this writ petition, the second respondent is directed to extend two more weeks for receiving the application i.e., as on today, it is stated that the last date for receiving the application is 26.07.2013 and the second respondent



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would receive the application upto 12.08.2013.

5. The second respondent is directed to issue necessary notification in this regard relating to extension of time as well as the teaching experience, particularly, as stated in paragraph No.20 of the order dated 12.07.2013 made in W.P.No.18186 of 2013."

10. In compliance with the aforesaid order in W.P.No.18186 of 2013 dated 12.07.2013 (clarified on 23.07.2013), the third appellant Board issued Corrigendum-III to Notification No.04 of 2013 on 02.08.2013, which outlined the criteria for awarding marks for teaching experience and the same is quoted below for ready reference:

Sl. No.	Date	Qualification prescribed by UGC for appointment of Lecturers in Colleges/Universities
1	Before 1991	P.G. with 50% minimum marks
2	19.09.1991	P.G. with 55% minimum marks with pass NET/SLET
3	1993	P.G. with 55% minimum marks with NET/SLET. Exemption for those who completed M.Phil before 31.12.1993 (or) submitted Ph.D., dissertation before 31.12.1993
4	31.07.2002	P.G. with 55% marks with NET/SLET. Exemption for Ph.D., dissertation submitted before 31.12.2002
5	14.06.2006	P.G. with 55% of minimum marks with NET/SLET. Exemption for M.Phil for taking U.G. Class & Ph.D. for taking P.G. Class.
6	30.06.2010	P.G. with 55% minimum marks with NET/SLET. Exemption only for Ph.D. holders

11. In such circumstances, one M.Pottiammal had preferred W.P.(MD)No.20173 of 2014 seeking direction for award of marks for teaching



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experience and the writ court following the original order dated 12.07.2013 passed in W.P.No.18186 of 2013, allowed the said writ petition, by directing the appellants to award the petitioner therein appropriate marks for her teaching experience. Subsequently, the State preferred Review application viz., Rev.Aplc(MD) No.3 of 2017, seeking to review the order dated 12.07.2013 passed in WP(MD)No.20173 of 2014 by drawing the attention of the court to the being mentioned order dated 23.07.2013 passed in WP.No.18186 of 2013. Taking note of the same, the learned Judge allowed the review application and dismissed contempt petition filed by the petitioner therein.

12. When such being the position, the learned Judge has passed the impugned order in the writ petition filed by the respondent herein, following the aforesaid orders originally passed in WP.No.18186 of 2013 dated 12.07.2013 and WP(MD)No.20173 of 2014 dated 02.03.2015. According to the learned Additional Advocate General appearing for the appellants, the writ petitioner has suppressed the being mentioned order dated 23.07.2013 passed in WP.No.18186 of 2013 and sought the relief of awarding teaching experience marks. It is evident from the order impugned herein that the learned Judge allowed the claim of the respondent herein, on the basis of the orders originally passed in WP.No.18186 of 2013 and WP(MD)No.20173 of 2014. As already stated supra, the said two orders passed by the writ court was subsequently, modified at the instance of the



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appellants herein. Based on the same, Corrigendum III dated 02.08.2013 came to be issued, as per which, the respondent herein is not entitled for weightage marks for the periods viz., from 05.06.2000 to 31.05.2001, from 01.06.2001 to 31.05.2002, from 01.06.2002 to 31.05.2003, from 06.06.2003 to 31.05.2004, from 01.06.2004 to 31.05.2005, from 01.06.2005 to 31.05.2006 and from 06.09.2011 to 31.08.2012, as he was not in possession of requisite qualification and therefore, the said period was not taken into consideration for awarding marks of teaching experience, according to the appellants. In this regard, it is relevant to refer to the averments made in paragraphs 6 and 7 of the additional memorandum of grounds filed by the appellants on 22.02.2023, which reads as under:

"6.The learned Judge ought to have considered that the Respondent / Writ Petitioner while submitting his applicant's Self-description form claimed to provided teaching experience marks only for the following colleges. The relevant portion is stated as follows:

S.No.	Name of the Post	Place of working (with address)	Period of working		Total period of working	
			From	To	Year	Month
1	2	3	4	5	6	7
1.	Assistant Professor	Park College of Engg and Tech, Coimbatore	05.06.2000	06.09.2010	10	03
2.	Professor	RVS Technical Campus, Coimbatore	06.09.2011	15.07.2013	01	10

7.The Learned Judge ought to have considered that the Respondent / Writ Petitioner during certificate verification has submitted only the above-said experience certificates. Since the Respondent / Writ Petitioner has not possessed NET/SLET and completed Ph.D only in the year 2012, he can be considered only under serial No.5 on the basis of his M.Phil degree which is exempted from NET/SLET and Ph.D to take classes for UG degree as the Corrigendum III dated 02.08.2013 of the Teachers Recruitment Board, the Certificate verification Board



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has taken only the below eligible period for awarding weightage marks. Hence, he is not entitled to award 15 marks for the teaching experience.

From	To	Weightage marks awarded
14.06.2006	31.05.2007	2 marks
01.06.2007	31.05.2010	6 marks
01.06.2010	06.09.2010	1 mark
04.08.2012	31.05.2013	2 marks
		11 marks

Thus, it is revealed from the above that after the order passed in WP.No.18186 of 2013 was clarified / modified on 23.07.2013, Corrigendum III dated 02.08.2013 came to be issued by deleting "(or) M.Phil completed before 31.12.2002" insofar as sl.no.4 is concerned, with respect to the qualification prescribed for awarding marks for the teaching experience; and according to the said Corrigendum, the respondent was considered under serial no.5, on the basis of his M.Phil degree, as it is an admitted fact that he has not possessed NET/SLET and completed Ph.D. only in the year 2012.

13. Therefore, this Court is of the opinion that the order issued by the learned Judge, directing the appellants to appoint the respondent as an Assistant Professor, following the orders originally issued in WP.No.18186 of 2013 and WP(MD)No.20173 of 2014, which were subsequently modified on 23.07.2013 and 02.02.2021, leading to the issuance of Corrigendum III, as per which, the respondent is not entitled for the claim as prayed in the writ petition, has no legs to stand and hence, the same deserves to be dismissed.



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14. At this juncture, it may not be out of place to mention that during the pendency of the proceedings, the Board conducted the entire recruitment process by following the Corrigendum III and finalised the recruitment for the year 2012; and that, the respondent / writ petitioner has attained the superannuation in December 2022.

15. In such view of the matter, the order impugned herein is set aside and the writ appeal is accordingly, allowed. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D,J.] [M.S.Q, J.]
31.07.2023

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Speaking Order / Non-speaking order

Internet : Yes.

Index : Yes / No

To

- 1.The Secretary to Government,
College Education Department,
Fort St. George, Chennai - 9.
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