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WP.No.10850 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2023

CORAM :

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.10850 of 2017
and WMP.Nos.11783 & 11784 of 2017

A.Mohamed Thamimun Ansaria

... Petitioner

-Vs-

1.The Teachers Recruitment Board,
DPI Campus, College Road,
Chennai – 600 006.

2.The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.

3.The Director of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent herein dated on 08.08.2014 published on the website of the first respondent declaring the petitioner as not eligible and quash the same and consequently direct the respondents to issue the petitioner with the TET certificate and accordingly direct the respondents to grant the petitioner with appointment to the post of B.A.Assistant (History) in B.C. Muslim category based upon the weightage marks of 56.63.



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For Petitioner : Mrs.Dakshayani Reddy, Senior Counsel
for Mrs. S.Suneetha
For Respondents : Mr.R.Neelakandan, AAG
assisted by Mr.R.Siddharth, GA for R1.
Mr.T.M.Rajangam, GA for R2 & R3.

ORDER

Heard the learned senior counsel for the petitioner and the learned Additional Advocate General for the first respondent and the learned Government Advocate for the second respondent and perused the materials available on record.

2. The case of the petitioner is that he applied for the post of B.T.Assistant (History), pursuant to the notification issued by the National Council for Teachers Education made the Teachers Eligibility Test (herein after referred to as “TET”) a mandatory qualification for appointment to the post of B.T.Assistant.

3. The petitioner qualified with 10th Standard, 12th Standard and B.A.(History) obtained from Alagappa University and thereafter obtained B.Ed., from the Tamil Nadu Teachers Education University. The petitioner appeared for the TET examination in the year 2013 and



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obtained 87 marks out of 150 marks i.e., 58%, the pass mark prescribed for TET examination was 60%. Due to the policy decision of the Government insofar as the Backward classes (including Backward Class Muslims). MBC, SC and STs, there shall be a relaxation of 5% in the pass percentage for the TET examination. By virtue of relaxation of 5%, given by the Government, the petitioner got qualified and the respondents had issued a fresh selected list, thereby the name of the petitioner was included in the list for certificate verification. On 07.05.2014, the petitioner attended the certificate verification and awaiting for the list to be published by the respondents. When the list was published, the name of the petitioner was not found place in the list and the individuals who had scored lesser marks than the petitioner were find place in the list. It is submitted that as governed by GO.Ms.No.71, School Education Department dated 30.05.2014, as per the GO weightage marks are given for marks obtained in the Higher Secondary, UG, B.Ed and TET examination. The petitioner had obtained 56.63 marks, and the last selected candidate obtained 53.97marks. In order to ascertain the facts, the petitioner approached the Teachers Recruitment Board, as to why the name of the petitioner was not found place in the selection list. In turn,



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the respondent stated the petitioner had undergone the qualification in the reverse order.

4. At this juncture, it is submitted that the petitioner had completed the 10th standard in the year 2002 and underwent 12th standard in the year 2002 to 2004 and failed in one paper. In the meanwhile, the petitioner appeared for the entrance examination at Alagappa University Distance Education Programme in B.A. History in the year 2005 and completed in the year 2008. Thereafter, the petitioner appeared for the arrear examination in 12th standard during March 2009 and passed out. Subsequently, the petitioner got admitted into B.Ed programme and obtained the degree in the year 2012.

5. According to the petitioner, the findings given by the respondent that the petitioner had completed the 12th standard, though having undergone the course prior to the admission into the degree programme. In the identical matter, this Court held that the same would not amount to undergoing the course simultaneously or undergoing the course in the reverse manner. The respondents herein took the matter on appeal before



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the Division Bench in WA.No.370 of 2015 and contended that non passing of the arrear examination would amount to undergoing the course in a reverse manner. Once again the respondents took up the matter to the Hon'ble Supreme Court in SLP.No.20274 of 2015, which was also dismissed confirming the judgment of the Hon'ble Division Bench.

6. It is the contention of the petitioner that the GO.Ms.No.107 dated 18.08.2009 prescribing the qualification to be obtained in 10 +2 +3 is satisfied by the petitioner. The respondents ought to have appreciated the facts that non passing of one subject in 12th standard would not invalidate the BA.(History) qualification of the petitioner as held by the Division Bench in WA.No.370 of 2015. The petitioner had not undergone the study of 10 +2 +3 in reverse manner and only one subject in 12th standard was passed subsequently which has been held by this Court as not amounting to reverse course of undergoing the study. Hence, the learned senior counsel seeks to consider the case of the petitioner to the post of B.A.Assistant (History) in BC Muslim Category based on the weightage marks of 56.63 obtained by him in the Teachers Recruitment Board.



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7. Per contra, the learned Additional Advocate General appearing for the respondents would submit that this Court in various judgments negated the claim of the similarly placed persons like that of the petitioner. It is submitted that the Tamil Nadu State and Subordinate Service Rules insofar as it mandates 10 +2 +3 pattern as criteria for qualification for the appointment to the post of B.T.Assistant.

8. In WA.No.40 of 2021 dated 28.04.2022, the case of the similarly placed person is that she obtained SSLC in the year 1991 and obtained B.Sc (Maths) in October 2004 before passing the Higher Secondary Examination and completed in 2010. The educational qualification of the appellant therein is 10 +3 +1 +2 instead of 10 +2 +3 +1. Wherein, the Division Bench of this Court had extracted the relevant portion of the GO.Ms.No.107 dated 18.08.2009 :- *“4.The Government carefully examined this recommendation and having decided to accept the recommendation of the Equivalence Committee issues an order recognizing the degrees in Diploma/Degree/Post-Graduate degree obtained through Open Universities only after having passed secondary school examination (10th std) and higher secondary school*



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examination on (+2) along for appointment/promotion in public services”.

9. In the case of **T.L.Muthukumar and others V. The Registrar General, High Court Madras** in **WP.No.18729 of 2010**, wherein the petitioners have obtained degrees issued through Open Universities shall be recognised and accepted for appointment and promotion, provided the said degree has been obtained after completing +2/Higher Secondary Examination. The petitioners obtained the degree through correspondence course and had not completed +2/Higher Secondary Examination. The validity of GO.Ms.107 dated 18.08.2009 was challenged, the Court held that the GO was held to be valid and that 10 +2 +3 was mandatory and failure to comply will result in disqualification.

10. In the case of **The Chairman Teachers Recruitment Board V. V.Kanimozhi** reported in **(2014) 8 MLJ 344**, wherein the respondent did not complete the +2 at the time of completing the degree. That is exactly the reason why she thereafter completed the +2. It is absolutely open to the respondent to do the same, the question for consideration is as



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to whether the said action would cure the defect, the said attempt cannot be substitute to the GO.Ms.107 dated 18.08.2009 and any other interpretation would amount to rewriting the provisions of the said GO, which is impermissible in law, without there being a challenge.

11. Yet another case, **The Chairman, Teachers Recruitment Board v. A.Valarmathi and others** in **WA.Nos.1496 to 1498 of 2015 dated 21.08.2018**, wherein in the advertisement dated 22.05.2013, it is clearly stated that the incumbent should have obtained a bachelor's degree from a recognised University under 10 +2 +3 pattern along with a bachelor's degree in Education. While the respondent in WA.No.1498/2015 has not even attempted to complete the +2 and the respondents in WA.Nos.1496 & 1497/2015 have completed higher secondary course after having obtained their bachelor's degree.

12. In the similar case of **The Joint Director of School Education (Secondary) v. J.Joseph Irudhayaraj** in **WA.No.2168 of 2018** wherein it was held as under :- *“In terms of the aforesaid Government Order, Unless as person completes graduation after completion of +2 he is not*



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eligible to be considered and if the plea of the Writ Petitioner is accepted, it would amount to putting a cart before a horse”.

13. In the recent decision of the Hon'ble Apex Court reported in **2023 LiveLaw (SC) 169** in the case of **P.Raman V. The Government of Tamil Nadu and others**, wherein the Tamil Nadu Public Service Commission in his Notification contain details of essential educational qualification and so far as the petitioner is concerned he had obtained post graduate degree from the open university without however pursuing any under graduate course. In the said decision, the Hon'ble Apex Court referred to the decision of this Court in **N.Ramesh V. Sibi Madam Gabriel** reported in **(2008) 3 MLJ 255** held that the post graduate degree obtained through open university without undergoing the basis degree is not acceptable. The decision of the High Court was upheld by the Hon'ble Apex Court in **Annamalai University V. Secretary to Government, Information and Tourism Department** reported in **(2009) 4 SCC 590**.



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14. Adverting to the aforesaid ratio laid down by this Court and the Hon'ble Apex Court the impugned provisional selection list of the Tamil Nadu Teacher Eligibility Test dated 08.08.2014 would be considered valid insofar as it mandates 10 +2 +3 pattern for qualification for appointment to the post of B.T.Assistant. This Court find that the same would not confer any benefit to the petitioner, who had obtained 10 +2 +3 in reverse manner.

15. In the aforesaid circumstances, this Court is of the view that the impugned provisional selection list of the Tamil Nadu Teacher Eligibility Test dated 08.08.2014 does not suffer any infirmity and accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No

Speaking order/Non Speaking order

Neutral Citation: Yes/No

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V. BHAVANI SUBBAROYAN, J.



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