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W.P.No.28247 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.28247 of 2017
and WMP Nos.30361 and 30361 of 2017

A.Vivekanandhan

... Petitioner

Vs.

1.The Director of School Education,
O/o the Directorate of School Education,
DPI Campus, College Road, Chennai-6.

2. The Joint Director (HSS),
O/o the Directorate of School Education,
DPI Campus, College Road, Chennai-6.

3. The Chief Educational Officer,
O/o the Chief Educational Office,
Ariyalur, Ariyalur District

... 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 relating to the order passed by the 2nd respondent in his proceedings in Na.Ka.No.027636/W3/E2/2017 dated 05.07.2017 and quash the same as illegal and consequently direct the 2nd respondent to include the name of the petitioner in the panel of B.T.Assistant fit for promotion to the post of P.G.Assistant



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(Economics) (same subject) for the year 2017-2018 without reference to reverse degree in the light of order dated 11.03.2014 made in W.P.No.1068 of 2014.

For Petitioner : Mr.S.Nambi Arooran
for M/s Ajmal Associates

For Respondents : Mr.K.H.Ravikumar
Government Advocate

ORDER

After having completed higher secondary in 10+2 pattern, the petitioner graduated in B.Sc(Mathematics) in the year 1990 and B.Ed in 1992. Based on his qualifications, he was appointed as B.T. Assistant on 19.12.2008. During his service in the respondent School, he was granted permission to pursue P.G.Degree in M.A.Economics, which he completed in December 2013. Since he did not possess bachelor's degree in Economics discipline, he underwent the same later and obtained his degree in B.A.Economics in the month of May 2016. The proposal sent from the Head Master of the School for his promotion to the post of P.G Assistant (Economics) was not considered and his name was omitted in the promotional panel for the post of P.G Assistant (Economics) for the year 2017-2018. When his request for inclusion was kept pending, he approached this Court and his representation was directed to be considered within a stipulated time by order of this Court passed in W.P.No.10343 of 2017



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dated 25.04.2013. In consequence to such direction, the impugned order dated 05.07.2017 came to be passed by placing reliance on G.O.Ms.No.65 P&AR Department dated 02.07.2014 and holding that the degree obtained by the petitioner in M.A.(Economics) and B.A.(Economics) during December 2013 and May 2016 respectively, is a reverse degree and therefore, his candidature cannot be considered. Challenging the same, the present writ petition has been filed.

2. Learned counsel for the petitioner placed reliance on the decision of this Court in the case of ***S.Ashalatha vs The Director of School Education and another*** passed in ***W.P.No.6870 of 2013 dated 25.03.2013*** and submitted that a reverse degree obtained in any discipline cannot be a disqualification for consideration for promotion. He also placed reliance on a subsequent decision of a learned Single Judge in ***W.P.No.1068 of 2014 dated 11.03.2014*** in the case of ***V.Kanimozhi vs The Director of School Education and another***, which judgment had placed reliance on the earlier orders passed by this Court in the case of ***S. Ashalatha*** cited supra for the same preposition.

3. Per contra, learned Government Advocate relied upon the decision of



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the Division Bench of this Court in the case of ***The Chairman, Teachers Recruitment Board and another vs A. Varmathi and others*** passed in ***W.A.Nos.1496 to 1498 of 2015*** as well as the decision in the case of ***The Chairman, Teachers Recruitment Board and another vs V.Kanimozhi in W.A.No.805 of 2014 dated 06.08.2014*** and submitted that since G.O.Ms.No.107 P&AR Department dated 18.08.2009 has been upheld and amendment has also been incorporated in Section 25 of Tamil Nadu Government Servants (Conditions of Service) Act, 2016, reverse degree in a particular discipline is not a qualification for promotion to the post of P.G. Assistant.

4. Insofar as the reliance on the order in the case of ***S.Ashalatha vs The Director of School Education and another*** passed in ***W.P.No.6870 of 2013 dated 25.03.2013***, the same has been reversed by the Division Bench of this Court in W.A.Nos.1496 to 1498 of 2015 dated 21.08.2018 and therefore, the decision does not require consideration.

5. The learned Government Advocate placed reliance on the decision of



the Division Bench in the case of ***The Chairman, Teachers Recruitment Board and another vs V.Kanimozhi in W.A.No.805 of 2014 dated 06.08.2014***,

which had dealt with the scope and ambit of G.O.Ms.No.107 P&AR Department dated 18.08.2009 and had held that the Post Graduate degree obtained in a pattern prescribed under the G.O will not be a valid qualification.

The relevant portions read as follows:

5.4. In the case on hand, admittedly, at the time of completing the degree, the respondent did not complete the plus 2 course. That is exactly the reason why she thereafter completed the plus 2 course. This fact has also been observed by the learned single Judge. While it is absolutely open to the respondent to do the same, the question for consideration is, as to whether the said action would cure the defect. In our respectful submission, the said attempt cannot be substitute to the Government Order passed in G.O.(Ms).No.107 Personnel &Administrative Reforms (M) Department, dated 18.8.2009. Any other interpretation would amount to re-writing the provisions of the said Government Order, which is impermissible in law, without there being a challenge.

5.5. Now, coming to the Regulations of the Unvieristy Grants Commission with reference to admission of a student to a Degree, the said issue is irrelevant insofar as



the insistence on the part of the appellants to comply with the Government Order passed in G.O.(Ms).No.107 Personnel & Administrative Reforms (M) Department, dated 18.8.2009. The appointment is to the post of Post Graduate Assistant Teacher in the Higher Secondary School. When the appellants thought it fit to make sure that only those who have completed plus 2 course and thereafter the degree course be eligible to be considered for a particular post of a teacher, then the wisdom and rationale behind the same cannot be questioned. As discussed above, the rationale has not been questioned before us and in any case, we do not find any arbitrariness in the Government Order, which has already been upheld.

5.6. The issue of recognition of a degree is different from a qualification fixed in service matters. An eligibility criteria fixed cannot be said to be an indirect way of derecognising a degree or diploma. To put it differently, such a degree cannot be termed as an eligible qualification for a particular post. Therefore, we are of the view that though scope and ambit of Regulation 2 of the University Grants Commission has not been considered by the learned single Judge, the same is not required to be considered in favour of the respondent in view of the express terms as provided in the G.O. Passed in G.O.(Ms).No.107 Personnel & Administrative Reforms (M) Department, dated 18.8.2009. In this connection, a useful reference can be made to the



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*Full Bench Judgment of the Rajasthan High Court in **Shanker Lal Verma and 13 others Vs. Rajasthan State Electricity (1993(3) LLJ 796)**, wherein the following passage is apposite:*

"32. It is also to be noted that these are not the cases of derecognition of a degree, diploma or certificate issued by a particular institution because of some fault on the part of the institution awarding the same. The cases of derecognition of particular institutions and consequently derecognition of the degrees, diplomas and certificates issued by such institutions have to be distinguished from service matters in which certain qualifications are deleted from the rules. Removing or deleting a qualification from eligibility criteria cannot be said to be derecognition of that qualification or a degree, diploma or certificate. It only means that the degree, diploma or certificate has ceased to be the eligibility qualification for a particular post. It does not take away from the candidate, the degree, diploma or certificate conferred by the institutions. For example, if the eligibility qualification for a particular post was earlier 'Graduate' and by amendment, it is raised to 'Post graduate', it does not mean that degree possessed by the candidates are derecognised. What it simply means is that the eligibility qualifications are enhanced and a higher qualification is now required. It is also to be taken into account that purpose behind amendment to the rule was not to derecognise any degree, diploma or certificate,



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it was only to delete certain qualifications from the eligibility criteria. This may be because of the changed situation in which the employer may find that candidates who have passed the Secondary School Examination from the Statutory Boards and Universities are available in sufficient numbers and it was not necessary to consider the candidates having equivalent qualifications. The respondents cannot be forced to accept equivalence of certain qualifications and to accept such equivalence for all times to come."

*5.7. Coming to the other decisions relied on by the respondent as considered by the learned single Judge, we are of the view that they do not have any application to the case on hand. In Writ Appeal No.1064 of 2012 dated 6.11.2013, the Division Bench of this Court merely directed the authorities to re-consider the matter. On a perusal of the Order passed by the learned single judge, it is seen that the ratio laid down in **W.A.No.1064 of 2012 dated 6.11.2013 (Joseph Vs. Irudayaraj Vs. Joint Director of School Education)** has been wrongly relied upon. The direction was specific to the effect that the entire issue will have to be considered in the light of paragraph No.4 of G.O.(Ms).No.107 Personnel & Administrative Reforms (M) Department, dated 18.8.2009. We have already discussed the scope and ambit of paragraph No.4 of the G.O. Therefore, we are of the view that the said decision does*



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not throw any light on the issue raised before us, that too, in favour of the respondent. Similarly, we are of the view that the decision dated 21.4.2014 relied upon by the respondent as rendered by the single Judge of this Court in W.P.No.13054 of 2010 etc., batch does not have any application to the case before us in view of the discussion made above, wherein, we have already held that fixing qualification is different from recognising a degree.”

6. The same view has also been taken in the case of ***The Chairman, Teachers Recruitment Board and another vs A. Varmathi and others*** passed in ***W.A.Nos.1496 to 1498 of 2015*** in the following manner:-

“ 18. In Teachers Recruitment Board and another Vs. M.Stanly Parnapas, in W.A.No.370 of 2015, it was found that the respondent had completed a three years diploma course and thereafter joined B.A. History thus he had studied 10+3+3. This 3 years diploma course has been recognized as equivalent to HSC and therefore, the Division Bench had, while distinguishing the judgment in Kanimozhi case referred to supra, held the respondent therein had obtained diploma and thereafter completed bachelors degree is qualified.



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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 Failed in one subject. (Cleared Mathematics paper in 2002) Pushpalatha W.A.No.1497/2015 Passed HSC in 2011 Devasena W.A.No.1498/2015 Failed in Mathematics

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*



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

7. The above said extracts are self explanatory. When the regulations prescribe any particular mode of education, as a qualification for promotion to the post of P.G.Assistant in Economics, the qualification obtained by the petitioner by graduating in B.A Economics in the month of May 2016 after completing his Post Graduation in M.A.Economics in the month of December 2013, which is a reverse degree, may not be a requisite qualification as per Section 25 of the Act.

8. Explanation-I-(c) of Section 25 of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 is extracted hereunder:-

(c) a post graduate degree obtained after completion of SSLC, Higher Secondary Course and a degree (10+2+3+2 or more) from any University or Institution recognised by the



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*University Grants Commission shall be recognised
as the qualification for appointment to any
service, class, category or grade. “*

9. In the light of Section 25 of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and the decisions of the Hon'ble Division Benches, I am of the view that there is no infirmity in the findings rendered by the second respondent in the impugned order dated 05.07.2017, that a reverse degree is a disqualification for promotion to the post of Post Graduate Assistant.

10. In the result, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

08.02.2023

Speaking
Neutral Citation: Yes
Index: Yes
Internet: Yes



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To
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O/o the Directorate of School Education,
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M.S.RAMESH,J.

Sr

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