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Writ Appeal No.791 of 2020

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Dated: 21.11.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR  
AND  
THE HONOURABLE MR. JUSTICE G.ARUL MURUGAN**

**Writ Appeal No.791 of 2020  
and C.M.P.No.10353 of 2020**

1. The Director of School Education,  
DPI Complex, College Road,  
Chennai – 600 006.
2. The Chairman,  
Teacher Recruitment Board,  
College Road, Chennai – 600 006. ... Appellants

**Vs**

**C.Porkodi ... Respondent**

**PRAYER:** Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 16.04.2019 made in W.P.No.21454 of 2012.

|                |                                                                                                                                                                                   |
|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| For Appellants | : Mr.K.V.Sajeev Kumar,<br>Special Government Pleader [R1]<br>Mr.R.Neelakandan, learned<br>Additional Advocate General<br>assisted by Mr.K.Sathish Kumar,<br>Standing Counsel [R2] |
| For Respondent | : Mr.K.Thilageswaran                                                                                                                                                              |



Writ Appeal No.791 of 2020

## **JUDGMENT**

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

This appeal has been directed against the order passed by the Writ Court dated 16.04.2019 made in W.P.No.21454 of 2012.

2. The respondent was the writ petitioner, whose name has been sponsored by the employment exchange pursuant to the notification issued by the second appellant i.e., Teachers Recruitment Board in notification No.5 of 2017 dated 26.07.2017 inviting applications for the appointment to the post of Special Teachers(Drawing, Physical Education, Music and Sewing).

3. Insofar as the candidature of the respondent/writ petitioner is concerned, her name had been sponsored by the employment exchange for the post of Special Teacher, Drawing, where the respondent credentials have been verified by way of certificate verification. Subsequently, selection had not been made, when this was verified by the respondent, she came to know that she was not selected or her selection was rejected with the remark that the degree obtained by the



Writ Appeal No.791 of 2020

respondent/writ petitioner was degree in Sculpture, therefore, on that ground her candidature was rejected.

4. Challenging the said rejection made by the Recruitment Agency viz., the second appellant/Teachers Recruitment Board, the respondent/writ petitioner had moved the said writ petition and the said writ petition was heard and was allowed by the learned Judge through the impugned order.

5. Assailing the said order impugned of the learned Judge, Mr.K.V.Sajeev Kumar, learned Special Government Pleader appearing for the first appellant herein has contended that, as per the notification issued by the second appellant, the qualification for Drawing Teacher had been mentioned specifically, which reads thus:

|                        |                                                                                                                    |
|------------------------|--------------------------------------------------------------------------------------------------------------------|
| <b>Drawing Teacher</b> | <b>1. General Educational Qualification : S.S.L.C.</b>                                                             |
|                        | <b>2. Technical qualification</b>                                                                                  |
|                        | i) a. Degree with Drawing and Painting under Part III of a University in the State or its equivalent.<br><b>Or</b> |
|                        | b. Diploma in Painting or Diploma in Drawing of the Annamalai University.<br><b>Or</b>                             |



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Writ Appeal No.791 of 2020

|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | <p>ii) Diploma in Painting or Commercial Arts or Modeling of the Government College of Arts and Crafts;</p> <p>Or</p> <p>Government Technical Examinations (Higher Grade) in free hand outline and Model Drawing</p> <p>Or</p> <p>Government Diploma in Drawing or a certificate issued by the Tamil Nadu Institute of Architecture and Sculpture, Mamallapuram.</p> <p>And</p> <p>iii) Technical Teachers Certificate</p> <p>Or</p> <p>iv)a. A Diploma in Fine Arts (5 years Course) awarded by Director of Technical Education.</p> <p>Or</p> <p>b. A Bachelor Degree in Fine Arts awarded by the Madras University or Bharathidasan University.</p> |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

6. Relying upon this prescription that has been made in the very notification issued by the Teachers Recruitment Board i.e., the second appellant, the learned Special Government Pleader would contend that, a person must have either of the qualifications, otherwise his or her candidature cannot be considered for the post of Special Teacher, Drawing.

7. The learned Special Government Pleader would further submit that, admittedly the respondent/writ petitioner is having the Bachelor



degree Fine Arts in Sculpture that was not one of the qualifications that has been prescribed in the said notification, therefore, rightly her candidature had been rejected. Hence, the learned Special Government Pleader seeks indulgence of this Court to interfere with the order impugned that has been passed by the Writ Court.

8. Heard Mr.R.Neelakandan, learned Additional Advocate General assisted by Mr.K.Sathish Kumar, learned Standing Counsel appearing for the second respondent/Teachers Recruitment Board.

9. We have gone through the judgment impugned.

10. The learned Judge has taken much pain in dealing with every aspect of the issue that has been projected before him. The qualification of the writ petitioner/respondent was that, she completed her Bachelor Degree Fine Arts in Sculpture in the year 1999 and she passed the degree in First Class. Thereafter, the writ petitioner/respondent completed her post graduation degree in Government College of Arts and Crafts, Kumbakonam and also she passed the same with First Class in the year 2001 and her name was registered in the Employment Exchange. When that being so, in 2010-2011 and 2011-2012 when special recruitment was



Writ Appeal No.791 of 2020

sought for, names have been sponsored by the Employment Exchange, where the name of the respondent/writ petitioner also has been sponsored under the category to selection and appointment to the post of Special Teacher, Drawing.

11. After certificate verification, her candidature was rejected on the ground that the degree obtained by the writ petitioner/respondent is Bachelor degree Fine Arts in Sculpture, whereas the required qualification as regard to the notification is Degree in Drawing or Diploma in Drawing or Diploma in Fine Arts (5 years course) awarded by Director of Technical Education or a Bachelor degree in Fine Arts awarded by the Madras University or Bharathidasan University. Since none of these qualifications, the writ petitioner/respondent was having, her candidature was rejected that was the stand taken by the appellants herein, who were the respondents before the Writ Court.

12. However, if we look at the qualification acquired by the respondent/writ petitioner, which is one of the best and higher qualification in the field of Arts and Culture, which includes Drawing.

Explaining this, the learned Judge has taken much pain as to how the



qualification of the respondent/writ petitioner is more suitable for the said post of Special Teacher, Drawing and he has stated the following in paragraphs 7 and 8 of the order, which are extracted hereunder:

*“7. The writ petitioner was called for verification of certificates for the post of Special Teacher in Drawing through employment exchange for the years 2010-2011 and 2011-2012 for Government, Corporation and Panchayat Union – Middle School, High School and Higher Secondary School by the second respondent, namely, the Teacher Recruitment Board. The petitioner was qualified with a degree of Bachelor of Fine Arts in Sculpture in Government College of Fine Arts, Chennai and Post Graduation Degree in Government College of Fine Arts and Crafts in Kumbakonam. She had enrolled herself with the employment exchange. She was not selected for the post for the reason “Degree in Sculpture”. The petitioner had undergone a 5 year course while qualifying for Degree in Bachelor of Fine Arts. She claimed that the first 2 years exclusively related to skills in Drawing. The specialisation course in Sculpture started only from the third year. It was further stated that the minimum qualification for recruitment of Special Teacher in Drawing is a Diploma in Fine Arts awarded by the Director of Technical Education or a Degree in Fine Arts awarded by the Madras University or the Bharathidasan University. Admittedly, the*



*petitioner had a Degree in Fine Arts. Her specialisation was Sculpture. But that cannot take away the fundamental fact that she had a Degree in Fine Arts.*

*8. It is trite to point out that before any Sculpture is carved the outline Drawing must be done of the artefact to be Sculpted and thereafter alone is the actual Sculpture crafted. Consequently, every Sculpturor has to be well qualified in Drawing. The reverse may not be true. A person, who is skilled in Drawing alone, may not be a good Sculpturor. The petitioner herein, who had qualified with a Degree in Fine Arts with Sculpture as a specialisation necessarily had to be skilled in Drawing. This is the foundation for any Sculpturor. The petitioner had also qualified herself in Post Graduation Degree from the Government College of Arts and Crafts in Kumbakonam. I hold that the respondents have taken a very narrow view to the prejudice of the petitioner.”*

13. Moreover, as per the notification under the Heading Drawing Teacher various qualifications have been mentioned as technical qualification, which include a Bachelor degree in Fine Arts awarded by the Madras University or Bharathidasan University.

14. In this context, it is to be noted that, the Registrar of the University of Madras had issued a letter to the Deputy Secretary to the



Writ Appeal No.791 of 2020

Government with regard to the equivalence of the Bachelor degree of Fine Arts awarded by the Madras University as well as the Diploma in Fine Arts awarded by the Government College of Arts and Crafts, Madras.

15. This also has been taken into account by the learned Judge in paragraph 15 of the order, which reads thus:

*“15. Though not directly germane to the issue, it must be also pointed out that the petitioner belongs to the Scheduled Caste category and having married a Backward Clause person, she also came under the 'priority' list in appointment. Refusal to accommodate her goes against the very tenants of providing opportunity for the upliftment of an unprivileged section of people, who deserve such appointment. Even as early as 09.03.1993, the Registrar, University of Madras had issued a letter to the Deputy Secretary of Government Education (TES-II) Department, which letter is extracted below for better appreciation:-*

*“I am to inform you that the Syndicate considered the recognition of Diploma in Fine Arts (5 years) awarded by the Government College of Arts and Crafts, Madras and has decided that the Diploma in Fine Arts awarded by the Government College of Arts and Crafts,*



*Madras be considered as equivalent to the Bachelor of Fine Arts (B.F.A.) Degree of this University for purposes of appointment.”*

16. Therefore, the very Madras University has certified that the Diploma awarded by the Government College of Arts and Crafts, Madras is equivalent to the degree of Bachelor in Fine Arts i.e., B.FA awarded by the University of Madras, which is one of the recognized qualification for the appointment to the post of Special Teacher, Drawing as per the notification of the Teachers Recruitment Board.

17. That apart, the Principal of Government College of Fine Arts by letter dated 16.08.2016 has given syllabus component of a Bachelor degree in Fine Arts and this has also been taken note by the learned Judge in paragraph 16 of the order, which reads thus:

*“16. Actually, the letter had recognised a Diploma course as equivalent to the Degree course. In the present case, the petitioner had also possessed Post Graduation Degree. Further, the Principal of Government College of Fine Arts had given a letter on 16.08.2016 and it is as follows:-*

*“TO WHOMSOEVER IT MAY CONCERN*

*This is to certify that any candidate who has*



*qualified and completed B.F.A (Bachelor in Fine Arts) degree in any following disciplines, drawing is fundamental unit of the syllabus.*

- 1. BFA (Painting)*
- 2. BFA (Sculpture)*
- 3. BFA (Visual Communication Design)*
- 4. BFA (Ceramic)*
- 5. BFA (Textile)*
- 6. BFA (Print Making) ”*

18. Therefore, it has become quite clear that the respondent/writ petitioner having completed the Bachelor degree in Fine Arts, Sculpture, is well-versed in drawing, without the drawing skill no one can become a sculpture and can be qualified to hold the degree of B.FA. This position has been established by various communications issued by the concerned institutions viz., University of Madras as well as the Government College of Fine Arts.

19. Therefore, the respondent/writ petitioner definitely was having one of the essential qualification in fact having the more qualification in that field as the degree awarded by the Government College of Arts and Crafts is equivalent to the degree being awarded by the University of Madras and this has been admitted by the very Registrar of the Madras University himself.



Writ Appeal No.791 of 2020

WEB COPY 20. When that being so, as per Clause (iv) (b) of the qualifications prescribed by the TRB in its notification for the post of Special Teacher, Drawing since has been fulfilled by the respondent/writ petitioner, her candidature ought not to have been rejected. However, for the reasons best known to them since the candidature has been rejected she had rightly approached the Writ Court, where the learned Judge allowed the said writ petition on 16.04.2019, absolutely there is no infirmity in the said decision of the learned Judge and we are fully agreeing with the view expressed by the learned Judge.

21 Resultantly, this appeal fails therefore it is liable to be rejected and accordingly, the present appeal is dismissed without costs. Connected miscellaneous petition is closed.

22. In view of the dismissal of this appeal confirming the order passed by the Writ Court dated 16.04.2019, the respondent/writ petitioner is entitled to get appointment to the post of Special Teacher, Drawing and such a selection and appointment shall be given by the respondents i.e., respondents 2 and 1 respectively within a period of



Writ Appeal No.791 of 2020

eight(8) weeks from the date of receipt of a copy of this order.

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23. However, no seniority can be claimed by the respondent/writ petitioner because of the delayed recruitment and appointment as the delay is caused due to the litigation and since the respondent/writ petitioner had not been selected and appointed, the past service cannot be counted in the account of the respondent/writ petitioner, therefore, for the said reasons she cannot claim any seniority or even notional appointment from the date of original recruitment, where other selectees were selected and appointed by the appellants.

**(R.S.K.,J.)**

**(G.A.M., J.)**

**21.11.2023**

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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Writ Appeal No.791 of 2020

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**Writ Appeal No.791 of 2020**

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