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W.A.No.3619 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.A.No.3619 of 2019 and

CMP No.23211 of 2019

1. State of Tamil Nadu rep. by the Secretary to Government,
Higher Education Department, Secretariat,
Chennai 600 009.
2. Chairman, Teachers Recruitment Board,
Chennai-6.
3. The Director of Collegiate Education,
Chennai 600 006.
4. P.Serfoji, (Roll No.B 09290085
Selection of Assistant Professors
Zoology (2009-2010),
C/o Teachers Recruitment Board,
Chennai-6.

... Appellants

VS

P.Veerasamy
Respondent

...



W.A.No.3619 of 2019

Prayer: Appeal under Clause 15 of the Letters Patent against the order dated 12.11.2013 in W.P.No.4143 of 2011 on the file of this Court.

For Appellants : Mr.V.Ravi,
Additional Government Pleader for A1 and A3

Mr.K.Sathish Kumar, Standing Counsel
for A2 and A4

For Respondent : Mr.V.Sivalingam

J U D G M E N T

(Judgment of the Court was delivered by D.KRISHNAKUMAR, J.)

By this Writ Appeal, challenge is made to the judgment dated 12.11.2013, when a writ petition was disposed of with a direction to the appellants herein to award weightage marks to the respondent herein for both experience and seniority of registration in the Employment Exchange to the extent of his eligibility and consider his case for recruitment and also direction to the second appellant herein (TRB) to pass appropriate orders, within a period of four weeks from the date of receipt of the copy of the order.



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2. The brief facts leading to filing of the present Appeal are as follows.

The respondent herein has applied for the post of Assistant Professor (Zoology), as per notification No.4/2010, and he has got experience as Assistant Professor in the subject of Zoology in Bio-Technology Department in Thanthai Hans Roever College, Elambalur Post, Perambalur District. According to the respondent/ writ petitioner, two marks should be awarded for his experience, however, the Board has not awarded the weightage marks, thereby, he was not selected to the above said post. Hence, he filed the above writ petition seeking direction to the Board and the official respondents to award two marks for his teaching experience. The Writ Court, by order dated 12.11.2013, has directed the official respondents, as stated supra and the above order is impugned herein.

3. The learned counsel for the appellants 1 and 4 submitted that before the Writ Court, the respondent herein relied upon a covered order passed in W.P.No.14624 of 2012 dated 11.11.2013 and by taking into



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account the above order, the Writ Court has passed order, as stated supra.

He further submitted that, the afore said covered order, relied upon by the respondent, is not apply to the facts of the case, because, that order was relating to the post of P.G. Assistant in the Higher Secondary School, but the writ petitioner applied to the post of Assistant Professor, Collegiate Education, and hence, the above said order would not render any assistance to the writ petitioner.

4. The learned Standing Counsel appearing for the Collegiate Education submitted that the writ petitioner applied for the post of Assistant Professor in Zoology for the year 2010 and when he was called for certificate verification, he was not awarded weightage marks for teaching experience, as he had furnished a Teaching Experience Certificate in the subject " Bio Technology". It is further submitted by the learned Standing Counsel that the Writ Court has passed order on 12.11.2013 and the appellants have filed the present Writ Appeal in the year 2014, however it was numbered in the year 2019. In the mean time, the writ petitioner filed contempt petition in C.P.No.980/2014 in W.P.No.4143/2011 and during



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contempt proceedings, in order to comply the order of this Court, the Board awarded 2 marks for teaching experience, subject to the outcome of the Writ Appeal and the writ petitioner was provisionally selected to the post of Assistant Professor in Zoology and to that effect, appointment and posting order was issued vide G.O.Ms.No.174 dated 08.10.2014. In furtherance to the above Government Order, the writ petitioner was appointed as Assistant Professor (Zoology), in the Arignar Anna Government Arts College Namakkal, vide proceedings of the Director of Collegiate Education, Chennai dated 17.10.2014. He also pointed out that, the writ petitioner was appointed only subject to the outcome of the Writ Appeal and hence, seeks to allow the Writ Appeal.

5. The learned counsel for the respondent/writ petitioner submitted that, in the notification No.4/2010 dated 29.03.2019, at paragraph 8(a), there is a specific clause of “ Mode of Recruitment ”, whereby, it was notified that during certificate verification, weightage marks will be awarded for High Educational qualifications, Teaching experience, as per G.O.Ms.No.412 dated 07.12.2009. He also submitted that, the petitioner is



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continuing in service as Assistant Professor in the Zoology Department for more than 8 years and now, he is working in the Government College at Musiri. In such circumstances, if any adverse order is passed, it will affect the petitioner, as he is not eligible for getting any alternative employment. He further submitted that, the delay in filing the Appeal is only on the part of the appellants and the writ petitioner being appointed as Assistant Professor (Zoology) and is continuing in the service for all these years, now after a lapse of more than 8 years, the appellants cannot seek to set aside the order of the Writ Court, as the writ petitioner is not having teaching experience in the relevant subject. Therefore, there is no illegality in the order passed by the Writ Court and it does not warrant any interference by this Bench and seeks to dismissal of the Writ Appeal,

6. We heard the learned counsel appearing for the appellants and the learned counsel appearing for the respondent and perused the materials placed on record.

7. A perusal of the Adv.No.4/2010 dated 29.03.2010 shows that the



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Teacher Recruitment Board issued a notification for direct recruitment of Assistant Professors in Tamil Nadu Collegiate Educational Service-2010, wherein, at paragraph No.8(a), it is stated as follows.

8(a) Mode of Recruitment: All the candidates who apply in response to the advertisement will be allowed for Certificate Verification at Chennai. During Certificate Verification, weightage marks will be awarded for Higher Educational Qualifications, Teaching Experience as per G.O.Ms.No.412, Higher Education (F2) Dept, dated 07.12.2009. Candidates will be short listed for interview in the ration of 1:5, on the ratio of 1:5, on the basis of weightage marks awarded, duly following communal and other applicable reservations, as per Government Rules now in vogue. Candidates will be selected for the post of Assistant Professors on the basis of marks awarded for the performance of the candidates during interview and the marks awarded in the certificate verification, duly following the communal and other applicable reservations. Detailed instructions will be available in the Prospectus along with the application forms. The candidates are requested to fill up application form very carefully, after going through the prospectus.

Further, in the prospectus issued by the Teachers Recruitment Board for the recruitment of Assistant Professors in Tamil Nadu Collegiate Educational Service for Government Arts and Science Colleges-2010, "Scheme of selection" is explained at paragraph No.11 as extracted hereunder.



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Scheme of Selection: Scheme of selection involves two stages. Marks will be awarded to all candidates based on the certificates produced by them during the time of certificate verification, as per criteria and also the marked awarded during the time of interview, as per G.O.Ms.No.412, Higher Education (F2) Department, dated 04.12.2019 as follows.

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	Qualifications (a) for Ph.D. in concerned subject - 9 marks (b) For M.Phil with SLET/NET - 6 marks (c) For PG & NET/SLET - 5 marks	9 marks
3	Interview	10 marks
	Total	34 marks

Stage-I: Certificate Verification: Candidates will be ranked subject-wise based on the information given by them in respect of items 1 -3 above, during the time of certificate verification. Thereafter, the rank-cum-communal roster will be prepared. Candidates may note that the provisional ranking will be done on the basis of information provided and documents submitted by them. If any information is found to be false or incorrect, such candidates will be summarily rejected. Hence, candidates are required to fill in the forms with great care and without making any unsubstantiated claims. Regarding the award of weightage marks the decision of the certificate verification Board will be the final.

Stage-II Interview

Therefore, as per the above Notification and Prospectus itself, it is clear that the candidates, who possessed teaching experience in the relevant subjects, will be awarded two marks for each year, subject to a maximum of 15



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marks. However, the learned counsel for the appellants contended that the covered judgment, relied upon before the writ court is applicable only to the post of P.G.Assistant, Higher Secondary School, not for Assistant Professor in Collegiate Education, which is unsustainable.

8. It is the contention of the appellants that, the writ petitioner had applied to the post of Assistant Professor in Zoology, however, he has not gained teaching experience in the relevant subject, but produced teaching experience certificate in the subject " Bio-Technology" and therefore, the petitioner is not entitled for awarding 2 marks.

9. With regard to the above submission, it is necessary to point out that the appellants have not filed any counter affidavit to the writ petition in W.P.No.4143 of 2011, raising the above ground. The Writ Court, by considering the submission made by the writ petitioner and also taking into account the limited scope of prayer, has given direction to the appellants herein, to award weightage marks to the writ petitioner for both experience and seniority of registration in the Employment Exchange **to the extend of**



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his eligibility and not passed any positive order. If the appellants aggrieved

by the above order, they should have been vigilant in filing the appeal in

time. But, the appellants filed the Appeal in the month of March 2014,

afterwards, they have not taken any effective steps to number appeal.

Instead, the appellants Board had complied the order passed by the Writ

Court during pendency of contempt proceedings in C.P.No.980/ 2014 in

W.P.No.4143/2011 by awarding two marks to the writ petitioner towards

teaching experience and selected him as Assistant Professor (Zoology).

Further, issued posting order, vide G.O.Ms.No.174 dated 08.10.2014 and

issued appointment order, vide proceedings dated 17.10.2014. Thereafter,

nearly after five years from the date of appointment order, the present appeal

was numbered in the year 2019 and it was came to admission on

04.11.2019. Now, at the stage of final disposal of the Writ Appeal, the writ

petitioner has completed his 8 years service as Assistant Professor (Zoology)

and also he is continuing his service, especially in the “ Zoology” subject.

Therefore, at this stage, the grounds raised by the appellants that the writ

petitioner has not gained teaching experience in the relevant subject and

hence he is not entitled for getting weightage marks, cannot be accepted. As



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such, we are of the considered view that the order passed by the Writ Court cannot be interfered with, since the delay is only on the part of the appellants in preferring the Appeal and also they have already complied the orders passed by the Writ Court during contempt proceedings. Therefore, the Writ Appeal fails and consequently, the same is liable to be dismissed.

10. Normally, this Court will impose costs on the respondent Board for the delay in filing the Appeal. However, considering the request made by the learned Counsel appearing for the Board, this Bench is not inclined to impose costs in the present Case. It is made clear that, in future, the appellant Board has to prefer Appeal within the period of limitation, otherwise costs will be imposed.

11. In fine, the Writ Appeal stands dismissed with costs. Consequently, connected miscellaneous petition is closed.

(D.K.K.J.) (K.G.T.J.)

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To
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1. The Secretary to Government, State of Tamilnadu,
Higher Education Department, Secretariat,
Chennai 600 009.
2. The Chairman, Teachers Recruitment Board,
Chennai-6.
3. The Director of Collegiate Education,
Chennai 600 006.



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D.KRISHNAKUMAR, J.

and

K.GOVINDARAJAN THILAKAVADI, J.

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