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W.P.No.29675 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.29675 of 2018
and WMP No.34633 of 2018

K.Vinoth

...Petitioner

Vs

1. The Tamil Nadu Public Service Commission
Rep by its Member Secretary,
Frazer Bridge Road, V.O.C.Nagar,
Park Town, Chennai-600 003.
2. The University of Pondicherry,
Rep by its Registrar,
Kalapet, Puducherry 605 014.
3. The Government of Tamil Nadu,
Rep by its Principal Secretary to Government,
Higher Education Department,
Fort St.George, Chennai-600 009.
4. The Government of Tamil Nadu,
Rep by its Principal Secretary to Government,
Finance Department, Fort St.George,
Chennai-600 009

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India
to issue a Writ of Certiorarified Mandamus to call for the records pertaining



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to the letters bearing No.190121163/PSD-RF/Gr II A/2014-2016 dated 24.05.2018 and the consequential letter bearing No.190121163/PSD-RF/Fr.IIA/2014-16 dated 26.07.2018 passed by the first respondent and quash the same and further direct the respondents to consider the petitioners degree of Degree in Bachelor of Commerce in Foreign Trade obtained from the second respondent as equivalent to Bachelor of Commerce degree and consequently accept the certificate of the petitioner as eligible under Notification No.17/2015 dated 12.10.2015 for the purpose of selection to the post of Junior Cooperative Auditor.

For Petitioner : Mr.K.S.Viswanathan
Senior Counsel for
Ms.T.Hemalatha

For Respondents : Ms.G.Hema
R.1
No appearance – R.2
Mr.T.M.Rajangam
Government Advocate
For R.3 and R.4

ORDER

The petitioner had applied for the post of Junior Cooperative Auditor pursuant to the Notification No.17 of 2015 for direct recruitment dated 12.10.2015 issued by the first respondent herein. During the course of selection process, the petitioner was provisionally selected and called for



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certificate verification. During the course of certificate verification, it was informed that his qualification in Bachelor of Commerce in Foreign Trade issued by Pondicherry University is not accompanied by an equivalence certificate for B.Com Degree and hence his candidature was rejected. Being aggrieved against this non-selection, the present writ petition has been filed.

2. Under the Notification dated 12.10.2015 the qualification prescribed for the post of Junior Cooperative Auditor was a B.Com degree among other qualifications. The petitioner had obtained Bachelor degree in Foreign Trade from Pondicherry University in the examination held in the month of June 2004 and the nomenclature of the above was later changed as “Bachelor of Commerce in Foreign Trade”.

3. During the course of selection process, the petitioner was provisionally selected and called for certificate verification on 01.03.2017. When the petitioner did not produce the required Government Order regarding equivalence of educational qualification to treat the degree of Bachelor of Commerce in Foreign Trade as equivalent to B.Com, he was given a week's time to produce the equivalence Government Order. In view



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of the inability on the part of the petitioner to produce the equivalence certificate in time, his application was rejected and his provisional selection was cancelled and intimated to the petitioner on 25.01.2018. His request for re-consideration was again rejected on 24.05.2018 and 26.07.2018. However G.O. (MS) No 55 dated 15-03-2018 conveying the resolutions of the 57th Equivalence committee came to be issued treating, inter-alia, Bachelor of Commerce in Foreign Trade as equivalent to B.Com.

4. Learned Senior Counsel appearing for the petitioner submits that the equivalence Government Order is only a clarification of the status of Bachelor Degree already obtained by the petitioner and it is explicitly stated in the GO itself that the various degrees mentioned therein would be treated as equivalent from the date of issuance of such degrees for the purpose of employment in public services. Hence the rejection of the selection of the petitioner by the first respondent is illegal.

5. Whereas the Learned Standing Counsel appearing for the first respondent submits that as per the conditions in the Notification dated 12.10.2015, "*Candidates should possess the educational qualification or its*



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equivalent qualification on the date of the Notification viz., 12.10.2015 and persons claiming equivalence of qualification should furnish the details of evidence for such claim when called for, failing which their application will be summarily rejected.” In this background, the learned Standing Counsel submits that since the Government Order granting equivalence to the petitioner's degree in Bachelor of Commerce in Foreign Trade vis-a-vis B.Com degree was given only on 15.03.2018, which was not produced at the time of certificate verification, there is no infirmity in the rejection orders.

6. The issue as to whether the Government Orders declaring the resolution of the equivalence committee between two degrees would be given effect to from the date of the Government Order or would revert back to the date on which the degree was obtained by a candidate is no more res-integra. In several decisions of the Hon'ble Supreme Court as well as various High Courts, it has been held that such Government orders declaring the validity between two degrees is only a reiteration of the status of the degree obtained by a particular candidate and therefore, such a degree is deemed to be equivalent to its corresponding degree from the date on which the candidate was awarded the degree. ***In the case of Praveen Kumar C.P***



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vs Kerala Public Service Commission and Others (SLP(C) No.3927 of 2021) reported in 2021 SCC Online 612 this ratio was reiterated in the

following manner:-

“ 27. Whether a GO would have prospective effect or relate back to an earlier date is a question which would have to be decided on the basis of text and tenor of the respective orders. The GOs which declared appellants’ degrees to be equivalent to those required as per the applicable notifications were not general orders but these two orders were person specific, relating to the two appellants. Once the GOs specifically declared that their B.Ed. degrees were equivalent to the designated subject which formed part of the employment notification, the GOs in substance have to be interpreted as clarificatory in nature and these cannot be construed to have had elevated the status or position of the degree they already had after the declaration was made in the GOs. The subject GOs only recognised an existing state of affairs so far as the nature of the degrees were concerned and did not create fresh value for the degrees which the appellants possessed. Though these equivalent orders were not in existence on the dates of issue of employment notifications, the GOs in substance recognize such status from the dates of obtaining



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such degrees. The GOs do not reveal any intervening circumstances which could be construed to imply that the respective degrees acquired the equivalent status because of such circumstances occurring subsequent to grant of their B.Ed. degrees. The aforesaid Notes to Clause 7 of the employment notifications postulated disclosure of the number and date of the orders on equivalence. But the GOs to which we have referred treat the equivalency to be operating on the dates of obtaining such degrees. Thus, the defect, if any, on disclosure requirement, shall stand cured on issue of the University orders followed by the GOs. The GOs also specify the context in which these were issued and refer to the appellants being included in the list of KPSC. This being the case, we do not think treating the appellants' degrees as equivalent to those required under the applicable notifications by the GOs issued in the year 2019 would result in change in the rules of the game midway. At best, it can be termed as interpreting the rules when the game was on, figuratively speaking. Such a course would, in our opinion, be permissible. For this reason, we do not consider it necessary to deal with the different authorities cited on the principle of "change in the rule of the game midway". We have opined that the appellants' degrees in B.Ed. were



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equivalent to those required by the employment notifications and the equivalency orders were merely clarificatory in nature. For this reason, we do not think there was any fundamental breach of Notes (v) and (vi) of Clause 7 of the respective employment notifications in the cases of the appellants.”

7. The aforesaid extract is self explanatory. Even in the aforesaid case a similar objection was raised by the respondents therein stating that in the qualification criteria prescribed in the Notification therein, the applicants were required to produce the concerned degree certificate and in cases where the equivalence was required they were required to produce equivalent certificate also. When the candidate before the Hon'ble Supreme Court had failed to produce the equivalence certificate, his candidature was rejected for non-production of the equivalence certificate. This is precisely the same objection raised by the learned Standing Counsel for the first respondent in the present writ petition also. Thus, when the Hon'ble Supreme Court has categorically substantiated that the equivalence certificate is only a ratification of the status of the degree obtained by the candidate, he is deemed to have possessed the required essential qualification on the date of his degree itself. Incidentally, in the aforesaid case, the Hon'ble Supreme



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Court had directed the Recruitment Agency to disclose the list of selected candidates and directed that the benefits thereof shall not be denied to the appellants therein on the ground of lapse of the list by efflux of time and they should be given appointment in their respective posts.

8. There is yet another aspect in this matter. In a recruitment process of this nature, the Recruitment Agency should bear in mind that obtaining an equivalence certificate is a time consuming process and should have been conscious of the fact that the candidates will not be in a position to leverage the Government to constitute an Equivalence Committee and have a resolution passed within a period of seven days. With this restraint in mind, when a large number of vacancies are sought to be filled up in a recruitment process, the Recruitment Agency can always put on hold some of the vacancies, where they require the candidates to obtain equivalence certificate, for a reasonable time. This is also in view of the fact that there could be lot of possibilities in public recruitments, when the candidate may lose an opportunity for further participation in the next recruitment process, owing to various disqualification like crossing of the upper age limit, etc. Contrary to taking such a pragmatic approach, but rather calling upon them



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to produce the Equivalence Certificate in a week's time, would only be a futile exercise of benevolence.

9. This Court has also taken into account the certificate produced by the petitioner from the Pondicherry University dated 06.03.2017, at the time of certificate verification, which certifies that the student having degree of Bachelor of Foreign Trade deserves same status of Bachelor of Commerce in Foreign Trade students of the Directorate of Distance Education, Pondicherry University.

10. Thus, when the petitioner's qualification was already valid from the month of June 2004 onwards, this Court is of the view that the respondents can be directed to create a supernumerary post, if necessary, in order to accommodate the petitioner for the post of Junior Cooperative Auditor under the Notification No.17 of 2015 dated 12.10.2015.

11. In the light of the above findings, the impugned orders dated 24.05.2018 and 26.07.2018 passed by the first respondent are quashed. The respondents shall issue an appointment order to the petitioner under the



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Notification No.17 of 2015 dated 12.10.2015 for the post of Junior Cooperative Auditor and in case, there are no vacancies, a supernumerary post of Junior Cooperative Auditor shall be created and the petitioner shall be accommodated therein. Such orders shall be passed atleast within a period of four weeks from the date of receipt of a copy of this order.

The writ petition stands thus allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes

Neutral Citation: Yes

Speaking order

sr

To

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M.S.RAMESH,J.

sr

4. Principal Secretary to Government,
Government of Tamil Nadu,
Finance Department, Fort St.George, Chennai-600 009

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