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W.P.No.19499 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2024

CORAM:

THE HONOURABLE MR JUSTICE G.K.ILANTHIRAIYAN

**W.P.No.19499 of 2022
and W.M.P.No.18973 of 2022**

S.Lavanya

..Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By its Principal Secretary to Government,
Higher Education Department,
Fort St.George, Chennai – 600 009.

2.Teachers Recruitment Board,
Rep. By its Chairman,
4th Floor, EVK Sampath Maaligai,
DPI Campus, College Road,
Chennai – 600 006.

3.The Bharathidasan University,
Rep. By its Vice Chancellor,
Palkalaiperur,
Tiruchirappalli – 620024.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the 2nd Respondent to accept the M.Phil degree certificate dated 12.10.2007 issued by the 3rd Respondent and award 3 weightage marks for the additional qualification of M.Phil degree in

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Chemistry to the 146 marks secured by the petitioner in the written examination held on 10-12-2021 by the 2nd Respondent pursuant to Notification No. 14 of 2019 dated 27-11-2019 and issue appointment order to the petitioner if her rank in the list of short listed candidates makes her eligible with 149 marks for the post of Lecturer in Chemistry in any one of the Government Polytechnic Colleges.

For Petitioner : Mrs.Nalini Chidambaram

Senior Counsel

for Mr.Kanchi Kailasam

For Respondents : Mr.R.Neethiperumal for R1
Government Advocate
Mr.R.Neelakandan for R2
Additional Advocate General

Assisted by

Mr.C.Kathiravan

Mr.V.Govarthanan for R3

for M/s.Rao and Reddy

ORDER

This writ petition has been filed to direct the 2nd Respondent to accept the M.Phil degree certificate dated 12.10.2007 issued by the 3rd Respondent and award 3 weightage marks for the additional qualification of M.Phil degree in Chemistry to the 146 marks secured by the petitioner in the written examination held on 10-12-2021 by the 2nd Respondent pursuant to Notification No. 14 of 2019 dated 27-11-2019 and issue appointment order to the petitioner if her rank in the list of shortlisted candidates makes her eligible



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with 149 marks for the post of Lecturer in Chemistry in any one of the Government Polytechnic Colleges.

2. The case of the petitioner is that the petitioner completed M.Sc. degree in Chemistry from Bharathidasan University in the year 2004. In November 2006, the petitioner completed M.Phil degree with specialisation subject as Chemistry from Bharathidasan University by correspondence course and she got M.Phil degree certificate dated 12.10.2007 certifying that the petitioner passed M.Phil in First Class. While so, the 2nd Respondent issued a Notification No.14/2019, dated 27.11.2019 calling for applications from eligible candidates for the post of Lecturer in Government Polytechnic Colleges for various subjects. The total vacancies was notified as 1060 and for the subject Chemistry, 84 vacancies were notified. Pursuant to the said notification, the petitioner was eligible to apply for the post of Lecturer in Chemistry and she applied online for the post of Lecturer in Chemistry, but the petitioner did not upload her M.Phil degree certificate. Thereafter, written exam was conducted on 10.12.2021 and the petitioner secured 146 marks in the written exam. During certificate verification, the petitioner offered to give her M.Phil degree certificate dated 12.10.2007 issued by the Bharathidasan University which she failed to upload at the time of applying for the

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examination under the said notification. However, the 2nd respondent refused to accept the petitioner's M.Phil degree certificate at the time of certificate verification since the said certificate was not uploaded at the time of online application. Hence, the present writ petition has been filed to direct the 2nd Respondent to accept the M.Phil degree certificate dated 12.10.2007 and award weightage mark to the petitioner.

3. Learned senior counsel appearing for the petitioner would submit that the 2nd respondent in Clause 10 of the Notification dated 27.11.2019 issued the Selection Procedure and had included the important note that M.Phil and PhD degree obtained through correspondences are ineligible for appointment as Lecture vide G.O.Ms.No.91, Higher Education (K2) Department, dated 03.04.2009 and as per clarification letter issued by government in Letter No 8609A/P2/2014-1, dated 13.06.2014. However, it is pertinent to note that the Division Bench of this Hon'ble Court in W.A. No.2698 of 2018 dated 11.01.2019 has held that G.O.Ms.No. 91, Higher Education Department, dated 03.04.2009 has only prospective effect as clarified by the 1st Respondent in its own letter No.8609A/12/2014-1, dated 13.06.2014 informing that any government order generally takes effect only from the date of issue of the orders and clarified that the orders issued in

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G.O.Ms.No.91, Higher Education Department, dated 03.04.2009 takes prospective effect only from the date of issue of the order dated 03.04.2009.

Hence, the M.Phil degree certificate obtained by the petitioner from the Bharathidasan University dated 12.10.2007 for having obtained the M.Phil through correspondence course will entitle the petitioner to get additional 3 marks and the clause in the notification dated 27.11.2019 issued by the 2nd Respondent stating that M.Phil degree obtained through correspondence are ineligible for appointment as Lecturer vide G.O.Ms.No.91, Higher Education (K2) Department, dated 03.04.2009 will not apply to the M.Phil degree obtained by the petitioner through correspondence course prior to 03-04-2009. Therefore, the petitioner is eligible to get additional 3 weightage marks for the M.Phil degree. The 2nd Respondent erred in law in not accepting the M.Phil degree certificate produced by the petitioner at the time of certificate verification on 16.07.2022 by taking a technical view that the petitioner did not upload the M.Phil degree certificate along with the online application.

4. In support of her contention, the learned senior counsel relied upon the judgment of the Hon'ble Supreme Court in the case of ***Dolly Chhanda Vs. Chairman, JEE and others*** reported in (2005) 9 SCC 779, in

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which, it has been held that what is relevant is the possession of the requisite eligibility qualification and not the submission of proof of possession of the requisite qualification.

5. The learned senior counsel also relied upon the judgment of this Court in the case of ***Teachers Recruitment Board vs. The Principal Secretary to the Government of Tamil Nadu*** in W.A.No.2698 of 2018 dated 11.01.2019, in which, this Court by its finding in paragraph No.8 had clarified that the Government Order will apply prospectively, therefore, the petitioner's M.Phil degree obtained through correspondence course in the year 2006 is eligible to get additional weightage marks.

6. Thus, if the ratio of the Hon'ble Supreme Court in (2005) 9 SCC 779 and the ratio of the decision of the Division Bench of this Hon'ble Court dated 11.01.2019 are applied to the facts of the petitioner's case and the 2nd Respondent is under a legal obligation to accept the petitioner's M.Phil degree certificate and award weightage marks for the additional qualification of M.Phil degree possessed by the petitioner to the written exam marks of 146. If the additional 3 weightage marks is awarded to the petitioner, then, the total marks of the petitioner would add upto 149 marks and she has a good chance of getting selected as Lecturer in Chemistry under the BC quota.

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7. Learned Additional Advocate General appearing for the 2nd

respondent would submit that the 2nd respondent Board vide Notification Advertisement No. 14/2019 dated 27.11.2019, calling applications from eligible candidates for Direct Recruitment for the post of Lecturers in Government Polytechnic Colleges and Special Institutions (Engineering/ Non Engineering) Tamil Nadu Educational Service for the year 2017-2018 only through online mode. The total vacancies notified for the post of Lecturers in Government Polytechnic Colleges and Special Institutions (Engineering / Non Engineering) were 1060. The petitioner applied for the post of Lecturer in Chemistry and secured 146 marks in written examination and she appeared for certificate verification on 16.07.2022. The petitioner did not upload the M.Phil degree certificate at the time of applying for the post of Lecturer (Chemistry) in Government Polytechnic Colleges. However, the 2nd respondent Board in its notification dated 27.11.2019, it has been clearly stated that evidence to the claims made in the online application which are incorrect, containing false claim and incomplete are liable to be rejected. The relevant portion is extracted hereunder:

“(c)Evidence of claims made in the online application
should be submitted at the time of Certificate Verification, if



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called for. Any subsequent claim made thereafter on submission of online application will not be entertained at any cost.

d) Incomplete applications and applications containing false claims or incorrect particulars relating to category of reservation, basic qualifications, communal category, and other eligibility criteria will be liable for rejection."

On 11.03.2022, Teachers Recruitment Board issued a press release permitting the candidates to upload additional documents from 11.03.2022 to 18.03.2022 relating to Certificate Verification which includes the M.Phil. Degree or Provisional Certificate and M.Phil. Mark sheets or Statement of Marks and it was also stated that only certificates uploaded in website shall be taken up for certificate verification as per Para 13(c) of the Notification which reads as follows:

"c) Evidence of claims made in the online application should be submitted at the time of Certificate Verification, if called for. Any subsequent claim made thereafter on submission of online application will not be entertained at any cost".



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8. Moreover, in the Press release dated 17.03.2022, the candidates were provided with second extension of time to upload their additional documents on the TRB website from 18.03.2022 to 25.03.2022 and on 24.03.2022, TRB further provided third extension of time from 25.03.2022 to 01.04.2022 to upload their additional documents. Furthermore, a link was also provided by the TRB through e-mail to upload their additional documents which was kept open from 20.05.2022 to 31.05.2022. Therefore, a series of four opportunities were provided by TRB. In spite of that, the petitioner failed to utilize these ample opportunities to upload her M.Phil Certificate. The Board has conducted certificate verification from 16.07.2022 to 18.07.2022 and it has completed the entire process of Certificate Verification and published the Provisional Selection List on 30.07.2022. Hence, the claim of the petitioner is unsustainable.

9. This Court gave its anxious consideration to the submissions made by the learned counsel on either side and perused the materials placed before this Court.

10. Admittedly, the petitioner possessed a requisite qualification to apply for the post of Lecturer in Chemistry Department. In order to avail weightage marks, the petitioner ought to have uploaded her M.Phil degree



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certificate, but the petitioner failed to do so and she has not mentioned her M.Phil degree qualification in her online application. Moreover, the important note in the notification itself is very clear that the M.Phil and Ph.D degree obtained through Distance Education are ineligible for appointment as per the Government Order. Therefore, the judgments referred by the learned Senior counsel for the petitioner ought not helpful to the case on hand and therefore, the directions sought for in the present writ petition cannot be considered and the same is devoid of merits.

11. Accordingly, the writ petition is dismissed. However, the second respondent is directed to consider the candidature of the petitioner for the vacancy available as per the Notification No.14/2019 dated 27.11.2019 for the post of Lecturer in Chemistry subject. It is also made clear that the user departments i.e., Adi Dravida and Tribal Welfare Department and the Directorate of Technical Education Department are directed to inform any vacancies in the post of Lecturer in the Chemistry Department to the 2nd respondent within a period of two(2) weeks from the date of receipt of a copy of this order, in turn, the 2nd respondent is directed to intimate the vacancies to the petitioner within a period of two weeks thereafter. No costs.

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Consequently, connected miscellaneous petition is closed.

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Index:Yes/No

Internet:Yes/No

Speaking order: Non-speaking order

G.K.ILANTHIRAIYAN,J.

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