



W.A.No.3094 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2024

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CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

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1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Collegiate Education,
Fort St.George,
Chennai - 9.
2. The Teachers Recruitment Board for
Government of Tamil Nadu,
College Road, Chennai - 6.
3. The Director of College Education,
College Road, Chennai - 6.

... Appellants

Vs.

R.Suresh

... Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 01.11.2019 passed in W.P.No.12089 of 2009.

For Appellants : Mr.D.Ravichander



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Special Government Pleader (Higher Education)

For Respondent : No appearance

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J U D G M E N T

(Judgment of the Court was made by **S.M.SUBRAMANIAM, J.**)

The intra-court appeal on hand has been instituted challenging the writ order dated 01.11.2019 passed in W.P.No.12089 of 2009. The State preferred the present appeal.

2. Mr.D.Ravichander, learned Special Government Pleader appearing on behalf of the appellants would submit that the recruitment notification No.04 of 2008-2009 was issued for selection and appointment to the post of Lecturers in Chemistry in Tamil Nadu Collegiate Educational Services for Government Arts and Science Colleges for the academic year 2008-2009. The notification was issued on 14.08.2008. The respondent submitted an application for selection to the post of Lecturer in Chemistry.

3. Admittedly, the respondent passed M.Sc. in Industrial Chemistry



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and M.Phil in Chemistry. His candidature was not considered by the Teachers Recruitment Board mainly on the ground that the respondent has failed to produce equivalence order passed by the Government of Tamil Nadu holding that M.Sc in Industrial Chemistry is equivalent to M.Sc in Chemistry. As per the qualification stipulated, M.Sc in Chemistry and M.Phil in Chemistry are eligible for selection to the post of lecturer in Chemistry. In the event of producing equivalence order, the candidate will be considered for selection. Since the respondent had not produced any equivalence order granted by the Government of Tamil Nadu, he was not selected by the Teachers Recruitment Board.

4. Learned Single Judge in the order impugned has recorded the fact that during the pendency of the writ petition, the Government has issued orders *vide* G.O.Ms.No.24, Higher Education (K2) Department, dated 13.02.2013 treating M.Sc in Industrial Chemistry as equivalent to M.Sc in Chemistry offered by Alagappa University, Karaikudi and by virtue of the Government Order, the respondent/writ petitioner is eligible for selection to the post of Lecturer in Chemistry.

5. G.O.Ms.No.24, Higher Education Department dated 13.02.2013



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cannot be applied in respect of the selections, which were completed prior to the issuance of the Government Order granting equivalence. At the time of subject selection, the Government has not passed any equivalence order. Therefore, the respondent was not selected. Subsequent Government order granting equivalence cannot be applied for selection, which was completed.

6. At the time of selection process in which the respondent participated, there was no Government Order granting equivalence. The selection process in entirety had been completed prior to the issuance of Government order in G.O.Ms.No.24 dated 13.02.2013. After a lapse of about five years from the date of completion of subject recruitment, the Government order issued in G.O.Ms.No.24, cannot retrospectively applied, so as to select the respondent. Such applications, if approved, would result in opening of Pandora's Box and many such candidates possessing M.Sc (Industrial Chemistry) would claim selections in respect of the selection process completed for various posts. However, such equivalence order issued in G.O.Ms.No.24 dated 13.02.2013 is to be applied for the selection notifications, which are all issued after issuance of the Government Order. In other words, the Government Order is to be implemented prospectively and



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cannot be applied retrospectively to the completed selection processes.

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7. Selection *per se* would not confer any right on the candidates. Participating in the process of selection is a fundamental right of the candidates. The employers are empowered to cancel the selection process, if an administrative decision is taken. In the present case, the selection process was completed. The relief of selection and appointment was granted after 10 years from the date of completion of selection by the writ court by retrospectively applying the equivalence order issued in G.O.Ms.No.24 dated 13.02.2013.

8. Admittedly, the respondent was not selected by the Teachers' Recruitment Board on the ground that he do no possess the requisite educational qualifications as stipulated in the recruitment notification. The respondent had not produced any equivalence order passed by the Government during the relevant point of time. That being the factum, the writ court ought not to have issued a direction to select and appoint the respondent after completion of selection process and by applying the Government Order, which was issued by the Government subsequent to the completion of the



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selection process in entirety. Thus, we are inclined to interfere.

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9. Accordingly, the impugned writ order dated 01.11.2019 passed in W.P.No.12089 of 2009 is set aside and the Writ Appeal stands **allowed**.

No costs.

[S.M.S., J.] [C.K., J.]
26.06.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To

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