



W.P.No.24698 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 21.03.2024

Pronounced on : 24.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.24698 of 2022 and
WMP.No.23645 of 2022

S.Kamakshi

... Petitioner

Vs.

- 1.The Government of Tamilnadu
Rep. By Secretary to the Government,
Higher Education(F2) Department,
Fort St.George, Chennai 600 009
 - 2.The Director of Collegiate Education,
College Road, Chennai 600 006
 - 3.The Joint Director of Collegiate Education(Planning & Development),
College Road, Chennai 600 006
- ... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in relation to the GO.(2D) No.34 Higher Education(F2) Department dated 08.08.2022 issued by the first respondent and quash the same and issue a consequential direction to the respondents to reinstate the petitioner as Lecturer in Government Collegiate Educational Service, with all service and monetary benefits including attendant benefits.



W.P.No.24698 of 2022

For Petitioner : Mr.R.Saseetharan

For Respondents : Mr.C.Jayaprakash,
Government Advocate

ORDER

This writ petition has been filed challenging the order of dismissal dated 08.08.2022 passed by the first respondent in GO.(2D) No.34 Higher Education (F2) Department.

2. The petitioner was selected and appointed to the post of Lecturer in Government Arts and Science Colleges in the Tamilnadu Collegiate Education Service under the control of the second respondent. Her selection was purely provisional and subject to verification and genuineness of all certificates relating to eligibility by appointing authority. As per the notification, selection will be cancelled at any stage, if any information furnished by the candidate is found incorrect or false or if the ineligibility is detected by the appropriate authority. After due verification of certificates, the petitioner was issued order of appointment dated 07.07.2009 and she was appointed as Lecturer in English at L.N. Government Arts College, Ponneri, Tiruvallur District. As per



W.P.No.24698 of 2022

GO.Ms.No.214 dated 18.12.2014, her service was regularised from the date of her appointment by the proceedings dated 18.12.2015 on the file of the second respondent and was declared that the petitioner had completed the period of probation successfully on 08.07.2011. While being so, one Professor one, R.Gowrishankar had filed writ petition before this Court in WP.No.12817 of 2018 raising doubt as to genuineness of the petitioner's Ph.D. and experience certificate. Therefore, the petitioner was directed to produce experience certificate and to submit her explanation. On verification of certificates, the petitioner was served with charge memo consisting four charges as follows:

CHARGE NO.1:

That, she obtained an Experience Certificate showing that she worked at Thanjavur Karanthai Tamizhvel Umamaheshwaranar Arts College and Thanjavur Kundhavai Nachiyar Government Girls Arts College (Tamil) for the same period from July, 1996 to September, 1996 and obtained marks and got selected to the post of lecturer, which could not be accepted.

CHARGE NO.2:



W.P.No.24698 of 2022

That, she was researching for her Ph.D. Degree at Tamil University, Thanjavur for a period from 06.03.1996 to 09.07.2001, which would be clear from the Transfer Certificate, that in the above said period, she has stated by producing a certificate that she worked in Thanjavur Karanthai Thamizhvel Umamaheshwaranar Arts College and got marks and got selected, that the period of study for the Ph.D. and the experience certificate relates to the same period, which is contrary to the Rule and would not be accepted.

CHARGE NO.3:

That, she produced an Experience Certificate from ICFAI National College Private University and submitted the Experience Certificate and got marks and got selected, a certificate from the Institution which is not recognised by the UGC is not acceptable.

CHARGE NO.4:

That, as per the Notification issued by the Teachers Recruitment Board, a Candidate would have obtained Ph.D. degree in concerned subject but she got Ph.D. in Linguistics which cannot be accepted.

3. On receipt of the same, the petitioner submitted her detailed representation. However, it was not satisfied and as such, disciplinary proceedings was initiated and the petitioner was removed from service by



W.P.No.24698 of 2022

the order dated 08.08.2022.

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4. The learned counsel appearing for the petitioner would submit that the petitioner was appointed as Lecturer on 07.07.2009 on verifying the certificates produced by the petitioner. After lapse of 13 years of her selection and appointment, now the petitioner has been removed from service on the ground that the petitioner produced fake experience certificate. The petitioner was regularised in the post of Lecturer from the date of her initial appointment i.e. 07.07.2009 by GO.Ms.No.214 Higher Education (F2) Department dated 18.12.2014. In fact, no charge has been charged against the petitioner to the effect that the experience certificate which are three numbers and the Ph.D certificate which were produced by the petitioner at the time of selection before the Teacher Recruitment Board, is bogus, false and fake certificate. However, enquiry officer held that all the certificates produced by the petitioner are bogus, fake or false. During certificate verification, if at all the certificates produced by the petitioner are fake, she would not have been awarded any weightage marks. The weightage mark was awarded by the Teachers Recruitment Board and as such, the second



W.P.No.24698 of 2022

respondent has no authority or jurisdiction to question the weightage mark awarded by the Teachers Recruitment Board which is redesignated as Nodal Agency for selection to the teaching post.

4.1 He further submitted that the writ petition filed by the said Dr.R.Gowrishankar in WP.No.12812 of 2018 for challenging the charges framed against him and for direction to conduct enquiry in respect of experience certificate of the petitioner and the Ph.D. Degree of the petitioner. The said writ petition was dismissed by an order dated 08.04.2019. However, without proceeding with the disciplinary proceedings as against the said person, in order to save him, the respondents proceeded as against the petitioner even after dismissal of the writ petition. He further submitted that the first charge is related to teaching experience for two months i.e. from the month of July to September 1996 in two colleges. However, the certificate produced by the petitioner insofar as the first charge is concerned, it is related to 1 year and 11 months. But the charge is related to only for two months. Therefore, the weightage marks awarded to the petitioner for the



W.P.No.24698 of 2022

remaining period can be taken into account and order of dismissal from service cannot be sustained. For the said two months period also, the petitioner had worked in part time basis in two different colleges. Therefore, both the colleges had given experience certificate and it cannot be said as bogus or fake one. The degree of Ph.D. is not a qualification for the post of Lecturer after introduction of National Eligibility Test and State Level Eligibility Test. Further as per the notification, in respect of candidates who have Ph.D. Degree is exempted from passing SLET and NET in relation to UG and PG teaching. The same notification further stated that candidates possessing M.Phil degree are exempted from passing SLET and NET in respect of teaching of UG which would mean that the petitioner is eligible for selection since she has M.Phil degree irrespective of Ph.D. Degree and her eligibility is not found defect.

4.2 In support of his contention, the learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court of India in the case of *Buddhi Nath Chaudhary and Others Vs. Abahi Kumar and Others* reported in (2001) 3 SCC 328, wherein it is held that



W.P.No.24698 of 2022

equitable considerations extended to selected candidates who have worked in the post for a long period. The effect of conclusion is that appointments made long back pursuant to a selection should not be disturbed.

4.3 He further submitted that the petitioner was not served with enquiry report and therefore, the entire disciplinary proceedings are vitiated and the order of dismissal cannot be sustained. In this regard, he relied upon the judgment of the Hon'ble Supreme Court of India in the case of ***Union of India and Others Vs. R.P.Singh*** reported in (2014) 7 ***SCC 340***, wherein it is held as follows:

27. After the said Office Memorandum, a further Office Memorandum has been issued on 05.03.2014, which pertains to supply of copy of UPSC advice to the Charged Officer. We think it appropriate to reproduce the same:

"The undersigned is directed to refer to this Department's O.M. of even number dated 06.01.2014 and to say that it has been decided, in partial modification of the above O.M. that a copy of the inquiry report may be given to the Government servant as provided in Rule 15(2) of Central Secretariat



W.P.No.24698 of 2022

Services (Classification, Control and Appeal) Rules, 1965. The inquiry report together with the representation, if any, of the Government servant may be forwarded to the Commission for advice. On receipt of the Commission's advice, a copy of the advice may be provided to the Government servant who may be allowed to submit his representation, if any, on the Commission's advice within fifteen days. The Disciplinary Authority will consider the inquiry report, advice of the Commission and the representation(s) of the Government servant before arriving at a final decision."

28. In our considered opinion, both the Office Memoranda are not only in consonance with the [S.K.Kapoor's](#) case but also in accordance with the principles of natural justice which has been stated in [B.Karunakar's](#) case.

5. Heard, the learned counsel appearing on either side.

6. On perusal of the counter filed by the respondents and on considering the submissions made by the learned counsel appearing on



W.P.No.24698 of 2022

either side, revealed that the petitioner produced experience certificates during verification as follows:

<i>S No.</i>	<i>College</i>	<i>Experience</i>
1	Kundhavai Nachiyar Government Arts College for Women, Thanjavur	23.07.1994 to Apr 1995 25.06.1995 to Apr 1996 July 1996 to Sep 1996
2	T.U.K. Arts College, Karanthai, Thanjavur	03.07.1996 to 31.12.2001
3	Linguistics Study Unit of Department of Tamil Language, University of Madras	July 2002 to Nov 2002 Jan 2003 to May 2003 July 2003 to Nov 2003 Jan 2004 to May 2004
4	ICFAI National College Private University	29.11.2004 to 10.12.2005 12.12.2005 to 27.06.2006 03.07.2006 to 23.09.2008

7. The petitioner is also qualified with Ph.D. Degree and she has done her M.Phil and Ph.D. as a full time basis. As per the records produced by the petitioner, she has done M.Phil. in Linguistics on 06.05.1996 and had completed her Ph.D. from 06.03.1996 to 09.07.2001 and awarded with Ph.D. in the year 2002 in Linguistics. The course and the time for her M.Phil. and Ph.D. are as follows:



W.P.No.24698 of 2022

S. No	Experience Period	Educational Qualification
1	Kundhavai Nachiyar Government Arts College for Women, Thanjavur 23.07.1994 to Apr 1995 25.06.1995 to Apr 1996 July 1996 to Sep 1996	Obtained M.Phil., in Linguistics on 06.05.1996 (two years course)
2	T.U.K. Arts College, Karanthai, Thanjavur 03.07.1996 to 31.12.2001	Done her Ph.D., from 06.03.1996 to 09.07.2001 and awarded Ph.D., in the year 2002 in Linguistics
3	Period of work at Thanjavur Karanthai Tamilvel Umamageshwaranar College and the period of work in Kundavai Nachiyar Government Arts College from July 1996 to September 1996, are one and the same	

8. The petitioner had worked on hourly basis in two different colleges while pursuing her Ph.D. Therefore, the said period cannot be considered as teaching period for awarding marks which the petitioner has gained by projecting it as teaching experience. Therefore, the experience certificate produced by the petitioner was not accepted. That apart, the said University is recognised neither by the University Grants Commission nor by the All India Council for Technical Education. The recruitment was done through the method of awarding weightage marks for teaching experience and qualifications. The petitioner had produced



W.P.No.24698 of 2022

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teaching experience certificate which includes the period of her full time Ph.D. On production of such certificate, the petitioner secured marks for her experience as well as secured marks for her qualification. That is why, in order to prevent such malpractices, now the Government has abolished the said system of recruitment based on experience and qualification and introduced competitive written examination for direct recruitment to the post of Assistant Professors. Therefore, the petitioner cannot claim the period availed for her Ph.D. as working experience. Further, she cannot claim, for working in two colleges simultaneously on different hours per week, as experience along with studies as marks are awarded for teaching experience and qualification.

9. Though the learned counsel appearing for the petitioner specifically contended that the disciplinary proceedings has been initiated after period of thirteen years, the order of appointment is very clear that the selection is purely provisional and subject to the verification of genuineness of all certificates relating to eligibility by the appointing authority. The selection will be cancelled at any stage, if any information



W.P.No.24698 of 2022

furnished by the candidate is found incorrect or false or if ineligibility is detected by the appropriate authority. Therefore, mere delay as contended by the learned counsel for the petitioner, cannot be countenanced. On the complaint alleging that the weightage marks awarded for the petitioner's experience certificates which were fake, therefore on the said complaint, the employer can very well conduct enquiry and probe into the allegations raised in the complaint. Accordingly, the petitioner was served with charge memo and the enquiry officer was appointed to conduct enquiry. The enquiry officer conducted detailed enquiry and the enquiry officer held that the charges are proved against the petitioner. Thereafter, as per Tamilnadu Civil Services (Discipline and Appeal) Rules, after receipt of explanation from the petitioner, the petitioner was dismissed from service.

10. In fact, the second respondent requested the Teachers Recruitment Board about the inadmissible experience certificate produced by the petitioner. On verification, the experience certificate produced by the petitioner is controversial and thereby the mark for experience has been reduced from 15 to 7 and the petitioner had secured only 24 marks.



W.P.No.24698 of 2022

WEB COPY

Whereas cut off mark for BC candidate is 28. Hence, the petitioner does not come under the selection zone. Therefore, it cannot be said that the second respondent has no authority or jurisdiction to look into the experience certificate produced by the petitioner which was already verified and awarded by the Recruitment Agency i.e. Teachers Recruitment Board and the judgments cited by the learned counsel for the petitioner are not helpful to the case on hand.

11. In view of the above, this Court finds no infirmity or illegality in the impugned order passed by the first respondent. As such, this writ petition is devoid of merits and liable to be dismissed. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

24.04.2024

Neutral Citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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W.P.No.24698 of 2022

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To

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W.P.No.24698 of 2022

G.K.ILANTHIRAIYAN, J.

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W.P.No.24698 of 2022

24.04.2024