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W.P. No.23520 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2024

CORAM

THE HONOURABLE Mr. JUSTICE N.ANAND VENKATESH

W.P.No.23520/2024 & W.M.P. Nos.25728, 25730,25732 & 25735/2024

P.R. Mohamed Rafi

.. Petitioner

Vs

1 The State of Tamil Nadu
represented by its Principal Secretary to Government
Higher Education K1 Department
Fort St. George
Chennai 600 009

2 The Teachers Recruitment Board
IV Floor
DPI Campus
College Road
Chennai 600 006

3 The Registrar
Calicut University
Malappuram
Kerala – 673 635

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of the first respondent in



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G.O.Ms.No.36, Higher Education (K1) Department dated 15.02.2023 insofar as it relates to Item No.37 stating that B.Sc. Physics (with main and subsidiaries 1. Mathematics 2. Chemistry) awarded by University of Calicut is not equivalent to B.Sc. Physics for purpose of employment in public services and consequential proceedings of the second respondent whereby the list of candidates under the 'ineligible list' for the subject Physics dated 22.07.2024 has been issued including the petitioner in the said list, and to quash the same as being illegal and unsustainable in law insofar as the petitioner is concerned and for a consequential direction to treat the petitioner as eligible for the post of B.T. Assistant for the subject Physics for appointment under the recruitment notification dated 25.10.2023 issued by the second respondent.

For Petitioner	Mrs. N. Kavitha Rameshwar
For R1	Mr. D. Ravichandar Special Government Pleader
For R2	Mr. R. Neelakandan Additional Advocate General assisted by Mr. R. Siddharth, Standing Counsel

ORDER

When this matter was taken up for hearing on 13.08.2024, this Court passed the following order :

“This writ petition has been filed challenging G.O.(Ms.) No.36, Higher Education (K1) Department, dated 15.02.2023, insofar as it related to Item No.37, which states that B.Sc. Physics (with main and subsidiaries



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1.Mathematics 2.Chemistry) awarded by the University of Calicut is not equivalent to B.Sc.Physics for the purpose of employment in Public Services. The petitioner also sought for a consequential relief by way of a direction to the second respondent to include the name of the petitioner in the eligible list and to consider the appointment of the petitioner to the post of BT Assistant – Physics.

2. The case of the petitioner is that he had completed B.Sc. (Physics) in the year 2006 at Calicut University. Thereafter, he completed B.Ed. course at Calicut University in the year 2009. The petitioner was admitted to M.Sc. (Physics) course at Bharathidasan University and he completed the same in the year 2015.

3. The second respondent published the Notification for direct recruitment of Graduate Teachers/Block Resource Teacher Educators in School Education and other departments. The petitioner applied for the post of Graduate Assistant / BT Assistant since the petitioner possessed all the qualifications. The petitioner also belongs to BC (Muslim) category. The petitioner was permitted to write the examination and scored 98 marks and adding weightage marks, scored 101 marks. The second respondent published the certificate verification list and the name of the petitioner was found at Sl.No.173. The petitioner also participated in the certificate verification and produced all the relevant documents.

4. The grievance of the petitioner is that the second respondent while



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publishing the provisional selection list, added the name of the petitioner in the ineligible candidates list by citing G.O.(Ms.) No.36, Higher Education (K1) Department, dated 15.02.2023, which stated that the Under Graduate degree obtained by the petitioner is not equivalent. Aggrieved by the same, the Government Order has been put to challenge in the present writ petition and the petitioner has also sought for the consequential reliefs.

5. The issue in hand is squarely covered by the Hon'ble Division Bench judgment in W.A.No.166 of 2024 dated 12.07.2024, wherein a similar Government Order in G.O.(Ms).No.244, Higher Education (K2) Department, dated 07.11.2022, was put to challenge. The issue that arose in that case was as to whether the Government Order can operate retrospectively and even can affect the degrees obtained prior to passing of the Government Order. The relevant portions in the judgment are extracted hereunder:

"16. The basis on which the Full Bench proceeded is that when the equivalence committee had held that the degrees are equivalent, and if such recommendations are given only prospective effect it would mean that the vested rights created from the date of acquisition of the degrees, would be taken away. Applying the very same logic, and also noting that a degree issued by a university is to be treated on par with a decree of a competent court, it certainly creates vested rights in the candidate. More so, in the present case, when the university already certified the equivalence during the relevant point in time, the State Government cannot nullify such equivalence at this distance of time by giving its recommendations retrospective effect. As such, the impugned order can operate prospectively alone and cannot affect degrees obtained prior to the date of the impugned order if the equivalence have been previously certified either by a university or competent authority. We find force in the



submission of the counsel for the appellant that non-equivalence orders issued much later in time cannot be deemed to be retrospective and must only be prospective in nature so as not to take away the rights of candidates like the appellant who had acquired the said degree as early as in 2012 when the same was treated as equivalent to B.Sc. (Physics) and she was also granted admission to M.Sc. (Physics) based on such equivalence.

17. It is true that this Court, in exercise of powers under Article 226 of the Constitution of India, cannot interfere with the opinion rendered by the experts in the field. This Court is also not going into the correctness or otherwise of such opinion rendered by the experts. But at the same time, the order issued in G.O.Ms.No.244, Higher Education (C2) Department dated 07.11.2022, based on the opinion rendered by the experts, should not be put against the appellant to invalidate the otherwise valid degree obtained by her during the year 2012. In fact, the second respondent University itself has given equivalence certificate in favour of the appellant, based on which she participated in the competitive examination for the purpose of employment in public services. Therefore, we are of the view that the opinion rendered by the experts on 20.10.2022, based on which the Government issued G.O.Ms.No.244, Higher Education (C2) Department dated 07.11.2022, cannot be put against the appellant to deny her public employment. If at all, the Government Order in G.O.Ms.No.244, Higher Education (C2) Department dated 07.11.2022 must be applied prospectively and not retrospectively to bring within its sweep the degrees obtained by the students prior to the issuance of the said Government Order."

6. The petitioner has raised the very same issue in the present writ petition. According to the petitioner, he has completed B.Sc (Physics) in the year 2006 itself and it was recognized and the petitioner was given admission for M.Sc. (Physics) at Bharathidasan University and he has



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completed Post Graduation in the year 2015. Thereafter, the Government Order, which treats the Under Graduation degree as not equivalent cannot be given retrospective effect. The Division Bench has categorically held that the Government Order can only be given a prospective effect and it cannot affect the degree obtained prior to the passing of the Government Order.

7. Learned Additional Government Pleader appearing on behalf of the first respondent seeks for some time to take instructions in this case.

8. Since this Court does not want to dispose of this writ petition at the admission stage itself, one opportunity is given to the learned Additional Government Pleader to take instructions.

Post this case under the caption 'for passing final orders' on 21.08.2024 at 02.15 PM. In the mean time, one post shall be kept vacant.”

2. The learned Special Government Pleader appearing on behalf of the 1st respondent submitted that as per the impugned Government Order in G.O.(Ms.)No.36, Higher Education (K1) Department dated 15.02.2023 (in short “G.O.No.36”), there arose an occasion for the Equivalence Committee to individually deal with all the qualifications and insofar as the educational qualification awarded by the University of Calicut, it was found that the B.Sc. (Physics) degree awarded by the University of Calicut, is not equivalent and



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therefore, such degree cannot be taken into consideration, while considering a candidate in public employment.

3. The learned Special Government Pleader further submitted that in the earlier Government Order in G.O.(Ms.)No.51 dated 14.07.2015, passed by the Social Welfare and Nutritious Meal Programme (SW1) Department (in short “G.O.No.51”), there was no occasion for the Committee therein to specifically deal with each and every degree that was considered by the latter Committee. That Government Order had generally stated that the B.A., B.Sc. and B.Ed. degrees issued by the University of Calicut, will be considered to be equivalent and this was confined only to the Social Welfare Department. Therefore, this Government Order cannot be taken to be the final word, when it comes to the determination of equivalence of the degree granted by the University of Calicut.

4. In the light of the above submission, the learned Special Government Pleader contended that the judgment passed in the writ appeal and which was relied upon by the learned counsel for the petitioner, will not apply to the facts of the present case.



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5. This Court carefully went through the G.O.No.51, referred to *supra*. The Tamil Nadu Public Service Commission had forwarded the resolutions/recommendations passed by the Equivalence Committee formed by the Government on 30.05.2012, for considering various Under Graduate degrees/Post Graduate degrees, *etc.* awarded by various universities and educational institutions. While undertaking that exercise, it was found that the B.Sc. degree granted by the University of Calicut, is equivalent to the degree granted by the Madras University.

6. It is true that this exercise had taken place, when the Tamil Nadu Public Service Commission was in the process of filling up various posts in the Social Welfare Department. However, there is absolutely no indication that such determination will confine itself only to the Social Welfare Department and will not apply to other Departments.

7. The process of determining the equivalence in the degree granted by other



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universities cannot be compartmentalised between departments, in view of the fact that it is the same degree which is taken into consideration while proceeding further with the appointment by various departments. Therefore, it will be too naive to say that the determination of equivalence in G.O.No.51, will apply only to the Social Welfare Department and not to other departments. If this argument is taken to its logical end, it would mean that every time a department undertakes a selection process, an equivalence committee must be constituted to continuously review the degree granted by other universities. That will result in absurdity.

8. There is yet another way in which the above issue can be handled. G.O.No.51 has not been cancelled or withdrawn and there is an impact on the said G.O., only by virtue of the latter Government Order issued in G.O.No.36. This Government Order cannot operate retrospectively and take away the effect of the earlier Government Order that was issued in G.O.No.51.

9. It is also brought to the notice of this Court that there is an annexure to the notification issued by the 2nd respondent, wherein, there is also a reference to G.O.51 which declared the degree granted by the University of Calicut to be



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equivalent to the corresponding degree granted by the Madras University. This is yet another point which works in favour of the petitioner.

10. In the light of the above discussion, this Court holds that the Division Bench judgment that was relied upon by the learned counsel for the petitioner, squarely covers the issue involved in this case. In the case in hand, the writ petitioner had completed B.Sc. (Physics) in the year 2006 itself. This was, in fact, recognised by the Bharathidasan University, wherein, the petitioner was allowed to undergo Post Graduate degree and he had also completed Post Graduation in the year 2015. The degree that was granted in favour of the petitioner by the University of Calicut was also held to be equivalent by virtue of G.O.No.51. The subsequent G.O.No.36 cannot obviously take away the right vested on the petitioner by the earlier Government Order. This Government Order can only have a prospective effect.

11. In the result, Sl.No.37 of G.O.36 is held to have only a prospective effect and it will not take away or affect the degree obtained by the petitioner, prior to the passing of the said Government Order. As a consequence, the name of the



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petitioner should be brought within the eligible candidates list and should be considered for appointment to the post of B.T.Assistant (Physics), if he is otherwise qualified.

This writ petition is disposed of on the above terms. No costs. Connected W.M.P.s are closed.

21.08.2024

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Index : Yes/No

Neutral Citation : Yes/No

To

- 1 The Principal Secretary to Government
Higher Education K1 Department
Government of Tamil Nadu
Fort St. George, Chennai 600 009
- 2 The Teachers Recruitment Board
IV Floor, DPI Campus
College Road, Chennai 600 006
- 3 The Registrar
Calicut University
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