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Writ Petition No.26310 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.26310 of 2024

and

W.M.P.Nos.28743, 28745, 28747 & 28748 of 2024

K.Manimekalai
D/o.N.Kaladurai

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
represented by its
Principal Secretary to Government,
Higher Education K2 Department,
Fort St.George, Chennai - 600 009.
- 2.The State of Tamil Nadu,
represented by its
Principal Secretary to Government,
School Education Department,
Fort St.George, Chennai - 600 009.
- 3.Teachers Recruitment Board,
4th Floor, DPI Campus,
College Road, Chennai - 600 006.
- 4.The Registrar,
Avinashilingam University for Women,
Coimbatore District.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent in G.O.Ms.No.66, Higher Education (K2) Department, dated 24.04.2019 insofar as it relates to Agenda No.26 stating that B.A.Tamil and Economics awarded by Avinashilingam Institute for Home Science and Higher Education for Women (Deemed to be University) is 'not equivalent' to BA Tamil for the purpose of employment in public services and consequential proceedings of the third respondent in publishing the 'ineligible list' for the subject Tamil in S.No.3 dated 23.08.2024 and to quash the same as being illegal and unsustainable in law insofar as petitioner is concerned and for a consequential direction to treat the petitioner as eligible for the post of B.T.Assistant for the subject - Tamil for appointment under the recruitment notification dated 25.10.2023 issued by the third respondent herein.

For Petitioner : Mrs.N.Kavitha Rameshwar

For Respondents : Mr.K.Surendran,
Additional Government Pleader [R1]
Mrs.S.Mythreya Chandru
Special Government Pleader [R2]
Mr.K.Sathish Kumar
Standing Counsel[R3]

ORDER

Considering the fact that the issue involved in this writ petition is squarely covered by the earlier order passed by this Court in W.P.Nos.15518 & 22666 of 2024 dated 05.09.2024, the main writ petition itself is taken up for final hearing.



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2. This writ petition has been filed challenging the Government

Order issued by the first respondent in G.O.Ms.No.66, dated 24.04.2019 insofar as it relates to Agenda No.26 and the proceedings of the third respondent dated 23.08.2024 pertaining to Sl.No.3 where the name of the petitioner was included in the ineligible list and for a consequential direction to the respondents to treat the petitioner as eligible to the post of B.T.Assistant for subject - Tamil under recruitment notification dated 25.10.2023 issued by the third respondent.

3. Heard Mrs.N.Kavitha Rameshwar, learned counsel for petitioner, Mr.K.Surendran, learned Additional Government Pleader appearing for first respondent, Mrs.S.Mythreya Chandru, learned Special Government Pleader appearing for second respondent and Mr.K.Sathish Kumar, learned Standing Counsel appearing for third respondent.

4. The case of the petitioner is that she completed B.A.(Tamil and Economics) in the year 2007 from Avinashilingam University for Women. Thereafter, the petitioner completed her B.Ed. course in the year 2008 from Bharathiyar University. The petitioner already cleared the TET paper -II conducted by third respondent in the year 2013.



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5. The third respondent issued the notification dated 25.10.2023 inviting applications for the post of Graduate Teacher – B.T.Assistant. The petitioner applied for the post and the petitioner had specifically applied under the PSTM category. The further case of the petitioner is that she belongs to BC community. The petitioner wrote the examination and secured 93 marks and along with the weightage marks she secured 93.50 marks. The petitioner was also called for certificate verification and she produced all the original records.

6. The name of the petitioner was not considered for selection and it was found ineligible on the ground that the petitioner did not obtain equivalence Government Order for the Under Graduation degree. Earlier, the petitioner filed W.P.No.17042 of 2024 for a direction to consider the Under Graduation degree obtained by the petitioner from Avinashilingam University for Women. This writ petition was not entertained and the petitioner was granted liberty to challenge the equivalence G.O.Ms.No.66, dated 24.04.2019.

7. The third respondent also published the ineligible list on 23.08.2024 and the name of the petitioner was mentioned in Sl.No.3. The



petitioner was found ineligible on the ground that the Under Graduation degree is not equivalent as per G.O.Ms.66, dated 24.04.2019. Aggrieved by the same, the present writ petition has been filed before this Court.

8. The issue that is involved in the present writ petition is squarely covered by the earlier order passed in W.P.Nos.15518 & 22666 of 2024 dated 05.09.2024. The relevant portion is extracted hereunder:

"12. G.O.Ms.No.52, dated 31.01.1996 was issued by the Government of Tamil Nadu. It has been specifically stated in this Government Order that B.A., B.Sc., B.Com., B.Ed., etc., degree courses conducted by Avinashilingam Institute for Home Science and Higher Education for Women, Coimbatore will be recognised for the purpose of employment in public services. This Government Order does not specifically deal with any specialised subject and it generally states that all the above degrees will be recognised for the purpose of employment in public services. Thus, the Government Order was very widely worded.

13. There was a subsequent order issued in G.O.Ms.No.56, dated 24.04.2012. This Government Order stated that B.Ed., (Special Education) course awarded by any University will be considered to be equivalent to B.Ed., (General Education) for the purpose of employment in public services.

14. The notification issued by the 2nd respondent dated 25.10.2023 states that a candidate must possess the qualification of graduation with atleast 50% marks and B.Ed., (Special Education). As per G.O.Ms.No.36, dated 15.02.2023 and particularly in Item No.35 it has been mentioned that B.Sc., Special Education and Rehabilitation and Physics offered by Avinashilingam Institute for Home Science and Higher Education for Women is not equivalent to B.Sc., Physics for the purpose of employment in public services.



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15. The issue involved is as to whether this Government Order issued in G.O.Ms.No.36, dated 15.02.2023, will supplant the earlier Government Order and will take away the benefit acquired in the earlier Government Order.

16. The above issue is no longer *res integra* and it has been dealt with in detail in W.P.No.23520 of 2024, dated 21.08.2024. This Court considered the degree that was given by the University of Calicut which was considered to be equivalent by an earlier Government Order. A later Government Order was issued in the year 2022, wherein, it was stated that the earlier Under Graduation received from University of Calicut is not equivalent. This Court held that the later Government Order can have only a prospective effect. This Court in order to arrive at such a finding relied upon the judgment of the Division Bench in W.A.No.166 of 2024, dated 12.07.2024.

17. The above judgment will squarely apply to the facts of the present case. The advantage that enured in favour of the petitioner by virtue of G.O.Ms.No.52, dated 31.01.1996 cannot be taken away by the subsequent Government Order that was issued in G.O.Ms.No.36, dated 15.02.2023."

9. Learned counsel for third respondent submitted that the facts are different between the earlier case and this case. Learned counsel submitted that in the instant case, the petitioner was found ineligible by virtue of G.O.Ms.No.66, dated 24.04.2019. Therefore, even at the time when the notification was issued by the third respondent on 25.10.2023, this Government Order was in force. As a consequence, the petitioner has to necessarily obtain equivalence Government Order for the Under Graduation degree failing which the petitioner cannot seek for entertaining her candidature for selection.



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10. There is absolutely no difference on the actual issue that is involved in this writ petition and the earlier writ petition that was decided by this Court in W.P.Nos.15518 & 22666 of 2024. In both these cases, the issue under consideration is as to whether the relevant Government Order will have a prospective effect or retrospective effect. This Court has held that the Government Order will only have a prospective effect. Therefore, the Under Graduation degree obtained by the petitioner, which was found to be equivalent under G.O.Ms.No.52, dated 31.01.1996 cannot be supplanted by the subsequent G.O.Ms.No.66, dated 24.04.2019. Hence, the difference in the dates in both cases on which the Government Order was passed is not a determining factor to decide the issue that is involved in the present case.

11. In the light of the above discussion, this Court holds that the petitioner has the necessary educational qualification and it is not necessary for the petitioner to get an equivalence as per G.O.Ms.No.66, dated 24.04.2019 which only has a prospective effect. As a consequence, the name of the petitioner should be brought within the eligible candidates list and should be considered for appointment to the post of B.T. Assistant (Tamil), if she is otherwise qualified, forthwith.



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N.ANAND VENKATESH, J

gm

This writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

09.09.2024

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order

gm

To

1.The Principal Secretary to Government,
Higher Education K2 Department,
Fort St.George, Chennai - 600 009.

2.The Principal Secretary to Government,
School Education Department,
Fort St.George, Chennai - 600 009.

3.Teachers Recruitment Board,
4th Floor, DPI Campus,
College Road, Chennai - 600 006.

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