



W.A. No.3102 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 15.11.2024

DELIVERED ON: 20.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.No.3102 of 2024

and CMP. No.22298 of 2024

Teachers Recruitment Board,
Represented by its Member Secretary,
4th Floor, E.V.K.Sampath Maligai,
College Road, Chennai – 600 006.

.. Appellant

Vs

1.S.Anusuya

2.The State of Tamil Nadu,
Rep. by its Secretary,
School Education Department,
Fort St. George, Chennai – 600 009.

3.The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.

..Respondents



W.A. No.3102 of 2024

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to allow the Writ Appeal to set aside the final order dated 17.04.2024 made in W.P. No.26304 of 2017 on the file of this Court.

For Appellant : Mr.R.Neelakandan,
Additional Advocate General
assisted by Mr.K.Sathish Kumar

For Respondents : Mrs.Dakshayani Reddy,
Senior Counsel for
Mrs.S.Suneetha for R1
for J.C.Durairaj,
Additional Government Pleader
for R2 & R3

J U D G M E N T

(Judgment of the Court was made by MR.JUSTICE P.B.BALAJI, J.)

The Teachers Recruitment Board, aggrieved by the order of the Writ Court in W.P. No.26304 of 2017 dated 17.04.2024 holding that the writ petitioner did not acquire the Post Graduation degree in Physics and B.Ed., degree simultaneously between the same academic years and consequently, directing the appellant to select and appoint the writ petitioner to the post of P.G.Assistant Physics, is the appellant before us.



2. We have heard Mr.R.Neelakandan, learned Additional Advocate General, assisted by Mr.K.Sathish Kumar, learned counsel for the appellant and Mrs.Dakshayani Reddy, learned Senior Counsel for Mrs.S.Suneetha, learned counsel for the and Mr.J.C.Durairaj, learned Additional Government Pleader for respondent 2 and 3.

3. The learned Additional Advocate General appearing for the appellant would submit that the first respondent did not fulfill the prerequisites of G.O.No.107, P & AR(M) Department, dated 18.08.2009 and consequently, she was ineligible for even being considered for final selection. He would further submit that the first respondent had acquired two degrees viz, M.Sc.,(Physics) and B.Ed., degree and therefore, her candidature was rightly not considered, in line with the relevant Government Orders.

4. The learned counsel for the appellant would further submit that the regular stream of M.Sc was a degree having duration of two years and if any candidate, after completing the first year, discontinued the studies midway, then such candidate will be treated as a dropped out candidate and would



not be allowed to continue in the second year course, much less, being permitted to write the final examination. He would further submit that such candidate would be treated as a fresh candidate, that is as a new entry for the 1st year degree course and therefore, the said Rule would squarely apply to the first respondent as well.

5. The learned Additional Advocate General would contend that the pattern of study for eligibility as per the prevailing G.O's are 10+2+3+1+2, 10+2+3+2+1, 10+3+3+1+2, 10+3+3+2+1, 11+1+3+1+2, 11+1+3+2+1 and 11+2+3+2+1. The course study of the first respondent was in gross violation of any of the eligible above patterns of study and therefore, the first respondent was treated as ineligible and was not considered for final selection. He would submit that the learned Single Judge has failed to see that the first respondent did not fulfill any of the prerequisites of G.O.No.107, P & AR(M) Department, dated 18.08.2009.

6. He would also submit that the recruitment insofar as the first respondent was for the year 2017-2018 and subsequent recruitments for the year 2018-2019 and 2020-2021 had also attained finality and all vacancies



have already been filled up and in such circumstances, if any relief is granted to the writ petitioner/first respondent, it would unsettle the settled recruitment itself. On the above contentions, the learned Additional Advocate General would pray for the Writ Appeal being allowed.

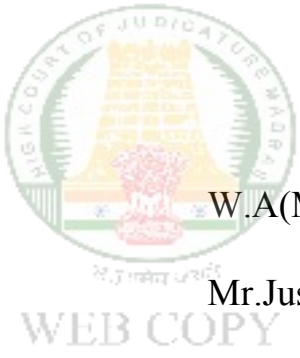
7. Per contra, the learned Senior Counsel Mr.Dakshayani Reddy would submit that even according to the appellant Board, the first respondent did not undergo simultaneous degree course and she would refer to the memorandum of grounds of Writ Appeal, in ground 3, where the appellant has drawn a tabular column giving the month and year of degree obtained and after referring to the same, the learned Senior Counsel would submit that even according to the appellant Board the first respondent did not undergo any simultaneous degree and therefore, the decision to treat the first respondent as ineligible was unfounded and baseless.

8. The learned Senior Counsel would also place reliance on the decision rendered by one of us (Mr.Justice.D.Krishnakumar) in *W.P.No.35179 of 2012 in D.Sivaranjani vs State of Tamil Nadu and others*, dated 01.02.2017, where this Court held that when a person had



discontinued the first course and got re-admission subsequently and during the discontinued period, the person had obtained another degree, then it would not amount to undergoing two different degrees simultaneously. The learned Senior Counsel would also place reliance on the Division Bench of this Court in *W.P.No.1602 of 2022 in The Teacher Recruitment Board vs D.Sivaranjani and others*, dated 03.10.2023 which was an Appeal filed against the order passed by one of us (Mr.Justice.D.Krishnakumar) in W.P.No.35179 of 2012 discussed herein above. The Division Bench also upheld the order passed in the Writ Petition in W.P.No.35179 of 2012 and dismissed the Writ Appeal filed by the Board holding that when the first respondent had not concurrently pursued two degrees in the same academic year, then it will not amount to pursuing two degrees simultaneously. In fact, the Division Bench placed reliance on the decision of the Hon'ble Supreme Court in *A.Dharmaraj vs Chief Educational Officer, Pudukottai & Ors.* reported in (2022) 11 SCC 692, where also a similar view was taken by the Hon'ble Supreme Court.

9. The learned Senior Counsel would further place reliance on the decision of the Division Bench judgement of this Court in



W.A(MD).No.2196 of 2023, dated 03.01.2024 (where one of us was a party Mr.Justice.D.Krishnakumar), where also, the Division Bench following the ratio of the Division Bench of this Court in *S.Jagadeeswari vs Chairman, Teachers Recruitment Board, Chennai, dated 07.01.2014 in W.A.No.845 of 2013*, held that the respondent had undergone two courses simultaneously and therefore was not eligible for consideration.

10. However, we do not find the facts of that case being applied to the facts of the present case, especially in W.A(MD).No.2196 of 2023, the Division Bench held that the first respondent therein had joined M.Sc., course in August 2013 and subsequently, had appeared for the second year examination in December, 2014 and the duration of the M.Sc., Course being two years, there was a clear overlap of the two degree courses. In, *The Member Secretary, Tamil Nadu Teacher Recruitment Board vs K.Sivaselvi and others*, the Division Bench of the Madurai Bench of this Court by order dated 24.07.2024 in W.A.(MD).No.1250 of 2019 held that, the first respondent, on the facts of the said case, had not pursued her MA., (Tamil) 2nd second year and B.Ed., course in the same academic year and was consequently, entitled for the next year selection process. Therefore, the



learned Senior Counsel, Mrs.Dakshayani Reddy would pray for the Writ Appeal being dismissed.

11. Having carefully considered the submissions advanced by the learned counsel on either side and applying the ratio laid down by the Hon'ble Supreme Court as well as the Division Benches of this Court and testing the facts of the present case in the light of the said ratio, we are able to see that in the present case, admittedly, even according to the appellant Board, the first respondent completed her three year B.Sc., Physics in the year May 2004 and joined M.Sc., Physics through distance education (2 year course in May 2004). However, after completing one year, in May 2005, the petitioner did not pursue her second year M.Sc., and she joined B.Ed., regular stream, one year course and completed the same in May 2006. Thereafter she rejoined her M.Sc., Physics in May 2006 and completed the same only in November 2011. Therefore, clearly there is no overlap on the part of the first respondent in undergoing two different degrees simultaneously.

12. The ratio laid down by this Court in *D.Sivaranjani's* case



(referred herein supra) which also came to be confirmed by the Division Bench placing reliance of the decision of the Hon'ble Supreme Court in *A.Dharmaraj's* case (referred herein supra) would squarely apply to the facts of the present case. The decision relied on by the learned Additional Advocate General in W.A(MD).No.2196 of 2023, is clearly distinguishable on the facts of those cases and therefore, cannot be applied to the present case.

13. The Writ Court has also rightly found that there is no simultaneous degree course undertaken by the first respondent and the Writ Court has also followed the ratio laid down by the Hon'ble Supreme Court in *A.Dharmaraj's* case (referred herein supra). We therefore do not find any requirement warranting interference of the well considered order of the Writ Court. The Writ Court has rightly held that the Board has not produced any material to prove that the certificates are not genuine and in fact, we find that there is not even a ground raised in the present Writ Appeal. Therefore we have no hesitation in confirming the order of the Writ Court. Accordingly, the writ appeal is liable to be dismissed.



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14. In fine, the Writ Appeal is dismissed, the order of the Writ Court is confirmed. The appellant Board shall select and appoint the first respondent to the post of P.G.Assistant (Physics) within a period of six weeks from the date of receipt of the copy of this judgement. Consequently, connected Miscellaneous Petition is also closed. No costs.

(D.K.K.J.,) (P.B.B.J.,)

20.11.2024

Internet: Yes/No

Index : Yes/No

Speaking Order/Non Speaking Order

rkp

To

1. Teachers Recruitment Board,
Represented by its Member Secretary,
4th Floor, E.V.K.Sampath Maligai,
College Road, Chennai – 600 006.

2. Secretary, The State of Tamil Nadu,
School Education Department,
Fort St. George, Chennai – 600 009.

3. The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.



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D. KRISHNAKUMAR. J.,
and
P.B.BALAJI, J.

rkp

Pre-delivery Judgment in
W.A.No.3102 of 2024
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