



Writ Petition No.26304 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	<i>23.01.2024</i>
<i>Pronounced on</i>	<i>17.04.2024</i>

CORAM

THE HONOURABLE MR. JUSTICE BATTU DEVANAND

Writ Petition No.26304 of 2017
& WMP.Nos.27962 & 27963 of 2017
& WMP No.2111 of 2018

S.Anusuya

..Petitioner

vs.

1.State of Tamilnadu,
rep. by its Secretary,
School Education Department,
Fort St. George,
Chennai-600 009.

2.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006

3.The Teachers Recruitment Board,
rep. by its Member Secretary,
4th Floor, E.V.K.Sampath Maaligai,
College Road, Chennai-600 006.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the third respondent dated 'Nil' published on the website of the third respondent whereby the petitioner has been declared as not qualified



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and quash the same and consequently direct the respondents herein to select and appoint the petitioner to the post of P.G.Assistant (Physics) by taking into account the fact that the petitioner had not undergone her course of study of M.Sc.,(Physics) and B.Ed., simultaneously.

For Petitioner : Mrs.Dakshayani Reddy

For Respondents : Mrs.C.Sangamithirai,SGP for R1 &2
Mr.Sathish Kumar,SC for R3

ORDER

This Writ Petition has been filed seeking for issuance of a Certiorarified Mandamus, to call for the records of the third respondent dated 'Nil' published on the website of the third respondent whereby the petitioner has been declared as 'not qualified' and quash the same and consequently direct the respondents herein to select and appoint the petitioner to the post of P.G.Assistant (Physics) by taking into account the fact that the petitioner had not undergone her course of study of M.Sc.(Physics) and B.Ed., simultaneously.

2. The case of the petitioner is that the petitioner passed 10th standard in the year 1999, 12th standard in the year 2001 and B.Sc.(Physics) in the



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year 2004 from Manon Maniam Sundaranar University. She joined in Post Graduation (Physics) through Distance Education in the year 2004. She continued her course in M.Sc (Physics) during the academic year 2004-2005. Subsequently, the petitioner did not continue her M.Sc.(Physics) and took admission in the regular course in the Annamalai University for undergoing B.Ed and completed the same in May 2006. After completing B.Ed., she continued her M.Sc.,(Physics) from the academic year 2006 and subsequently, completed the same in the year 2011. She also got her name registered with the Employment Exchange.

3.While so, the third respondent issued an advertisement no.3 of 2017 dated 09.05.2017 calling for applications to the post of P.G.Assistant in various subjects. In the Notification, it is stated that the educational qualifications prescribed, should be in pattern of 10+2+3. According to the petitioner, she had satisfied the said condition since she got admitted into M.Sc., only after undergoing the study of 10+2+3 pattern. She also satisfied the G.O.Ms.No.361, dated 31.12.1999 which prescribes that the UGC and Post-Graduation degree should be in the same subject. The only condition prescribed in the prospectus is that the candidates, who have undergone the



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Master degree for only one year duration by way of dual degree, are not eligible to apply and also that the required qualifications should not be undergone simultaneously. The petitioner does not fall in the said categories. However, the third respondent erroneously disqualified the petitioner on the ground that the petitioner had undergone the course of study simultaneously.

4.Later, the petitioner undergone the selection process and obtained over all 91 marks and also attended for certificate verification and was awaiting for appointment orders. However, the petitioner was not found place in the selection list on the ground that she had undergone the PG and B.Ed. course simultaneously. Subsequently, the petitioner obtained a Certificate from the Manon Maniam Sundaranar University to the effect that she had not undergone any M.Sc. Programme during the academic year 2005-2006 (during this year, according to the petitioner, she had undergone B.Ed.course) and submitted the same to the 3rd respondent and requested to consider her candidature for the post. Since no reply is forthcoming, the petitioner has constrained to come forward with the present Writ Petition.



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5. A detailed counter affidavit has been filed by the third respondent stating that the petitioner applied for the post of Post Graduate Assistant (Physics) in pursuant to Advertisement no.3/2017 dated 09.05.2017. The petitioner appeared for the written examination and secured 91 marks. Since, she secured eligible cut off marks, the petitioner was called for Certificate Verification on 28.08.2017. On scrutiny of all the records/Certificates pertaining to the petitioner, she was treated as ineligible on the ground that the petitioner has acquired two degrees viz., M.Sc., (Physics) and B.Ed., Degree simultaneously in the same academic year. The Government has issued orders in G.O.Ms.No.720/Higher Secondary Department dated 28.04.1981 and as amended in G.O.Ms.No.361, School Education Department dated 31.12.1999 with prescribed qualification for the said post. The Teachers Recruitment Board has been instructed to adopt the qualification incorporated in the said Government Order, while making recruitments. As such the qualification prescribed in the notification are as detailed below:

"Candidates should possess M.A/M.Sc/M.Com in the relevant subject with B.Ed. The candidates should have studied the same subject in Bachelors Degree and Masters Degree, both for academic subjects and languages. All degree should be from



UGC/NCTE recognized Universities only".

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6.It is also stated that in addition to the above qualifications, the candidates who underwent the course of study under the pattern of study as per G.O.Ms.No.107, P & AR Department dated 18.8.2009 or as per G.O.No.242 Higher Education Department dated 18.12.2012 are eligible to be appointed as teacher. The pattern of study to be treated as eligible as per the above G.Os. 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; 11+2+3+2+1. Further, as per G.O.Ms.No.65 P & AR Department dated 2.7.2014, the qualification prescribed for a Post Graduate Assistant should be in the pattern of study, i.e. 10+2+3+2 or 10+2+3+3. The course of study of the petitioner is in gross violation of the above said G.Os. From the relevant documents and records produced by the petitioner, it was found that the petitioner pursued M.Sc. & B.Ed. Courses simultaneously.

7.It is further stated in the regular stream of M.Sc.,degree the duration of course is 2 years. After completing the 1st year, if any candidate discontinued the studies in the mid way of 2 years course, he/she will be



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WEB COM treated as a dropped candidate. They will be treated only as a fresh candidate or as a new entry for 1st year degree course. Hence, the petitioner, who could not fulfil the pre-requisites as per G.O.107, P& AR(M) Department dated 18.08.2009 is treated as ineligible and she could not be considered for final selection. The Board, on scrutiny of all records and after detailed examination, rejected the claim of the petitioner on the ground that the petitioner has done dual course viz., B.Ed., and M.Sc., simultaneously, during the same academic year. As per the Government Order issued vide G.O.Ms.No.65, P& AR(S) Department, dated 02.07.2014, the petitioner's qualification is in contrary to the orders of the Government Order. It is also stated by the petitioner that she could not have continued her M.Sc.,(Physics) as per para 4 of her affidavit. But, her B.Ed., Mark Sheet reveals that she has appeared in May 2006 examination and thus, it reveals that she has simultaneously passed two courses. With these averments, the 3rd respondent sought for dismissal of the Writ Petition.

8.Heard Mrs.Dakshayani Reddy, the learned counsel appearing for the petitioner and Mrs.C.Sangamithirai, learned Special Government Pleader appearing for the first and second respondents and Mr.Sathish



Kumar, learned Standing counsel appearing for the third respondent.

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9. I have carefully perused the materials available on record.

10. The learned counsel for the petitioner would submit that the third respondent Board failed to consider the fact that the petitioner had not undergone the course of study simultaneously. The petitioner underwent the first year M.Sc.,(Physics) and did not undergo the second year. She discontinued M.Sc second year and joined in B.Ed course. Thereafter, she continued her second year M.Sc. (Physics). The learned counsel would submit that as per the UGC guidelines, this simultaneous degree is one where both the programmes are to be completed within the duration of one programme. But in the instant case, the petitioner has not done so and had undergone her B.Ed programme separately and also had undergone her M.Sc.,(Physics) separately. The learned counsel has placed reliance on the judgement of a Division Bench of this Court in WA No.1603 of 2017, W.A.No.2928 of 2019 and W.A.No.1602 of 2022 to substantiate her arguments.



11. On the other hand, the learned Standing counsel for the third respondent would submit that in the regular stream of M.Sc degree, its duration is two years. After completing the first year, if any candidate discontinued the studies in the midway of two years course, will be treated as a dropped candidate. The learned Standing counsel would submit that after discontinuation for a period of one year, they will be allowed to continue in the second year PG Degree Course and they will be permitted to write final examination. They will be treated only as fresh candidates as new entry for first year degree course. As such, the petitioner failed to fulfill the prerequisites as per G.O.Ms.No.107, P & AR Department dated 18.8.2009 and she has to be treated as ineligible and she could not be considered for final selection and sought to dismiss the Writ Petition. The learned Standing counsel has placed reliance on the judgement of a Division Bench of this Court in W.A.No.31 of 21 to substantiate his arguments.

12. It is an admitted fact that the petitioner applied for the post of P.G.Assistant (Physics) and she secured 91 marks out of 100 marks in the written examination and she was called for certificate verification, but she was not selected for the post of P.G.Assistant (Physics). According to the



learned Standing counsel for the third respondent Board, the petitioner obtained two degrees i.e., M.Sc.,(Physics) and B.Ed., Degree simultaneously in the same academic year and hence she was found to be ineligible. Admittedly, in the present case, the petitioner joined the Post Graduation (Physics) in the Manon Maniam Sundaranar University through Distance Education in the year 2004. She studied the course of M.Sc.,(Physics) during the academic year 2004-2005. She did not continue her M.Sc.,(Physics) and took admission in the regular course in the Annamalai University for undergoing B.Ed.course. She joined in B.Ed course in the month of September 2005 and completed in May 2006. After completing her B.Ed., course in the month of May 2006, she continued her M.Sc. (Physics) from the academic year 2006 and appeared for examination in 2007 and completed her course in the year 2011.

13. On careful perusal of these facts, it appears that the petitioner never underwent the course of M.Sc.,(Physics) during the academic year 2005-06, while she was undergoing her B.Ed. course. As such, there is no substance in the contention of the learned Standing counsel for the third respondent Board that the petitioner acquired M.Sc.,(Physics) and B.Ed.,



simultaneously.

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14.The view of this Court fortified by three Division Benches of this Court in W.A.No.1603 of 2017, W.A.No.2928 of 2019 and W.A.No.1602 of 2022. The relevant portion as found in paragraphs 13 to 16 of the judgement in W.A.No.1602 of 2022 are extracted hereunder:

“13. Upon considering the rival contentions, the core issue that comes up for determination of this court is, whether the first respondent had obtained two degrees simultaneously and her academic timeline adheres to the Government orders regarding educational qualifications prescribed for the post of Post Graduate Assistant (English). In this connection, the certificates produced by the first respondent are required to be looked into and the same read as follows:

“Certificate No.DDE/B/2021-2022 dated 23.03.2022 issued by the Director, Annamalai University:

This is to certify that Ms.D.Sivaranjani was admitted to M.A. English Degree Programme with Enrolment No.0130603142 during the year 2006-2007. After completion of the I year, Transfer Certificate was issued on her request with Tc.No.15, dated 09-07-2007. Later during the academic year 2008-2009 she was Re-admitted to II year M.A. English degree programme dated 19-08-2008 and completed the programme with Tc.No.15, dated 19-06-2014. The



above candidate Enrolment No. and Transfer Certificate No. was same both I & II year.”

“Certificate No.ACE/2022/11 dated 24.03.2022 issued by the Principal, Arunachala College of Education, Tiruvannamalai:

This is to certify that Ms.D.Sivaranjani was admitted to B.Ed (One Year Course) with Register No.2821676 during academic year 2007-2008 on producing the Annamalai University M.A., 1 st year completed Transfer Certificate (TC) bearing No.15 dated 09.07.2007. Upon successful completion of the B.Ed course, a TC bearing Ser No.07 dated 27.06.2008 was issued from our institution.”

A conjoint reading of the above certificate dated 23.03.2022 issued by the Director of Annamalai University, Directorate of Distance Education, Annamalai Nagar, and the certificate dated 24.03.2022 issued by the Principal, Arunachala College of Education, Tiruvannamalai, would reveal that the first respondent initially enrolled in M.A. (English) course in the academic year 2006-07 in Annamalai University and after completion of first year, she discontinued it and joined the B.Ed degree in the year 2007-2008 in Arunachala College of Education; and thereafter, she re-enrolled in M.A. (English) program in the year 2008-2009 in Annamalai University. Thus, the first respondent did not pursue her two degrees in the same academic year, in the opinion of this court.

14. The appellant / Board cited various Government Orders with respect to the educational qualifications,



patterns of study, etc. required for selection to the post in question. They also referred to the letter dated 12.01.2011 addressed to the Chairman of Teachers Recruitment Board, in which, it was specifically stated that simultaneous completion of an undergraduate degree and B.Ed. in the same academic year, through a combination of courses from open universities and regular courses from different universities, has not been recognized. However, the case of the first respondent differs from the situation described in the said letter and the government orders. She did not complete her post graduate degree and B.Ed course simultaneously. Initially, she was admitted in M.A. (English) course in the year 2006-07 and after completion of one year, she discontinued the said course and obtained transfer certificate from the University and joined B.Ed course in the year 2007-08 and thereafter, she was readmitted in M.A. (English) program in the year 2008-2009 and as such, she had acquired M.A. (English) and B.Ed degrees sequentially and not simultaneously. It is also important to point out that the appellant/ Board has not produced any material to prove that the certificates produced by the first respondent are not genuine. In such circumstances, the contention made on the side of the appellant / Board for non-consideration of the candidature of the first respondent for appointment to the post of Post



Graduate Assistant (English) on the premise that she had obtained two degrees simultaneously, is untenable.

15. At this juncture, it may be useful to refer to the decision of the Apex Court in “**A. Dharmaraj v. Chief Educational Officer, Pudukottai & Ors. [(2022) 11 SCC 692]**”, wherein, the appellant pursued B.A. (English) under distance education during January 2012 to December 2014 and successfully completed the same. When he was undergoing his study in B.A.(English), the appellant pursued M.A.(Tamil), which was a two year distance education course between the Academic Years 2013-14 and 2014-15. He appeared in the examination for M.A. (Tamil) in May 2014 and May 2015 and successfully completed the same. The promotion of the appellant to the post of B.T. Assistant (English) was challenged on the ground that by obtaining two degrees simultaneously, the appellant has rendered himself ineligible for the post in question, by virtue of Rule 14 which provides that “the teachers who have obtained B.A./B.Sc and B.Ed., during the same academic year shall not be eligible for recommendation”. The promotion of the appellant was set aside by the High Court. However, the Apex Court set aside the order of the High Court and categorically observed that the appellant did not concurrently pursue both the degrees in the same academic year and hence, it does not amount to pursuing two degrees



simultaneously. The relevant portion of the said decision is extracted hereunder for ready reference:

"5. Having heard the learned counsel appearing on behalf of the respective parties and on perusal of the judgment and order passed by the learned Single Judge as well as the Division Bench, it appears that the promotion of the Appellant to the post of B.T. Assistant (English) has been set aside by the High Court on the ground that the appellant obtained two degrees namely B.A. (English) and M.A. (Tamil) simultaneously and therefore as per Rule 14 he was ineligible for promotion. **However, considering Rule 14, it can be seen that the bar was against teachers who have obtained B.A./B.Sc./B.Ed degree simultaneously during the same academic year.** In the present case it cannot be said that the appellant obtained the degree of B.A. (English) and M.A. (Tamil) during the same academic year. The appellant pursued his B.A. (English) during January, 2012 to December, 2014. He pursued his M.A. (Tamil) which was a two years distance education course between the academic years 2013- 2014 and 2014-2015. Therefore, as such Rule 14 is not applicable to the facts of the case on hand *stricto sensu*.

16. In the judgment in The Director of School Education, Chennai v. S.Prabhu (W.A.No.866 of 2015 dated 27.01.2017), cited on the side of the first respondent, it was held by the Division Bench of this court as follows:

"23.The complete details with regard to those candidates as to how they pursued 2 different courses simultaneously are not brought on record. Except the statement that 7 candidates, who secured better or equal marks like that of the Writ Petitioner, have pursued 2 academic programmes simultaneously,



there are no details furnished as to whether they have also dropped out during one particular academic session from any course and then moved on to pursue another course. If at all, any one of those 7 candidates has also dropped out of one academic programme or the other, as was done by the Writ Petitioner, they also deserve to be considered for recruitment to the post of Post Graduate Assistant. We are not confining granting the relief only to the Writ Petitioner because the entire issue is now revolving based upon a principle, but not on the basis of wrongful selection or refusal of selection of the Writ Petitioner alone. It is for the State and the Teachers Recruitment Board to revisit those 7 cases and in case any one of them had also dropped out of the academic programme in the same manner as the Writ Petitioner has done, such candidates also deserve to be considered for recruitment.

Applying the aforesaid legal proposition to the facts of the present case, wherein, the first respondent did not acquire post graduate degree and B.Ed degree, simultaneously, in the same academic year, and that, the appellant / Board has not produced any substantive material to prove that the certificates produced by the first respondent are not genuine, this court does not find any ground much less valid ground to allow this writ appeal.

15.This Court has gone through the judgement of this Court in W.A.No.31 of 2021 relied upon by the learned Standing counsel for the third respondent. This Court has no dispute with the findings in the said judgement that the third respondent Board is entitled to prescribe the



qualification as a condition of eligibility. But in that case, it appears that the Writ Petitioner therein without dis-continuing the Post Graduation Course, joined the B.Ed and subsequently completed M.Sc course in the year 2014-2015. Such facts and circumstances noted in the said judgement are different and not applicable to the facts and circumstance of the present case.

16. Having considered the facts and circumstances of the present case and in the light of the aforesaid legal proposition in the judgements of the Division Benches relied upon by the learned counsel for the petitioner as stated supra, it is to be held that the petitioner did not acquire Post Graduation degree in Physics and B.Ed., degree simultaneously during the same academic year and the Board failed to produce any substantial material to prove that the certificates produced by the petitioner are not genuine and accordingly, this Court holds that the action of the third respondent Board in rejecting the petitioner's candidature for the post of P.G.Assistant (Physics) is illegal and unjust.

17. For the foregoing reasons, this Writ Petition is allowed with a



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direction to the respondents to select and appoint the petitioner to the post of P.G.Assistant (Physics). No costs. Consequently, connected miscellaneous petitions are closed.

17. 04.2024

Index : Yes/No

Speaking order: Yes/No
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To

1.The State of Tamilnadu,
rep. by its Secretary,
School Education Department,
Fort St. George,
Chennai-600 009.

2.The Director of School Education,
DPI Campus, College Road,
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BATTU DEVANAND, J

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