



W.A(MD)No.401 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 21.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**W.A(MD)No.401 of 2024
and
C.M.P(MD)No.3545 of 2024**

1.The Chairman,
Teachers Recruitment Board,
O/o.The Teachers Recruitment Board,
4th Floor, EVK Sampath Maligai,
DPI Compound, College Road,
Chennai – 600 006.

2.The Member Secretary,
Teachers Recruitment Board,
O/o.The Teachers Recruitment Board,
4th Floor, EVK Sampath Maligai,
DPI Compound, College Road,
Chennai – 600 006.

... Appellants /
Respondents 2 & 3

Vs.

1.Dr.Zeenathul Farida

... 1st Respondent /
Writ Petitioner



W.A(MD)No.401 of 2024

2.The State represented by
The Secretary to Government,
Collegiate Education,
Secretariat,
Chennai

... 2nd Respondent /
1st Respondent

3.The Commissioner,
Directorate of Technical Education (DOTE),
Sardar Patel Road,
Chennai – 600 025.

... 3rd Respondent /
4th Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 08.08.2019 in W.P(MD)No.9330 of 2017 on the file of this Court.

For Petitioners : Mr.VR.Shanmuganathan

For Respondent : Mr.Ajmal Khan
Senior Counsel
for Mr.C.Venkatesh Kumar for R.1

Mr.V.Om.Prakash
for R.2 & R.3

ORDER

The writ petitioner herein / first respondent belongs to Backward Class Muslim category. The petitioner is a holder of B.E (Mechanical Engineering) Degree and M.Tech from IIT Madras. She was also awarded Ph.D by the University of Newcastle, Australia. The Teachers Recruitment Board issued advertisement dated 16.07.2014 calling for applications from



W.A(MD)No.401 of 2024

eligible candidates for appointment to the post of Assistant Professor in various disciplines. Totally 22 posts were allotted for Mechanical Engineering. One post of Assistant Professor in the subject of Mechanical Engineering was earmarked for BC(M)(W) category. The writ petitioner secured 106 marks out of 190 in the written examination. She was also called for certificate verification. The petitioner was eventually selected and posting order was issued directing her to join Alagappa Chettiar Engineering College at Karaikudi on or before 09.06.2017. The petitioner duly reported for duty.

2.The grievance of the petitioner is that she ought to have been awarded 8 extra marks for her Ph.D. She contends that if 8 extra marks have been awarded, she would have secured employment under the general category. Questioning her selection under BC(M)(W) category and seeking selection under GT(W) category after awarding 8 marks for Ph.D degree, she filed W.P(MD)No.9330 of 2017. The writ petition was disposed of vide order dated 08.08.2019 in the following terms:

“9....Therefore, this Court is inclined to pass the order as follows:-

(a)The respondents 2 and 3 are directed to send a communication to the petitioner to appear for the certificate verification, by asking her to produce all the relevant



W.A(MD)No.401 of 2024

documents for the selection to the post of Assistant Professor in Government Engineering Colleges under GT (G) quota, within a period of six weeks from the date of receipt of a copy of this order, subject to production of Evaluation Certificate, if it is required.

(b) The respondent Board shall award marks for Ph.D., Degree qualification to the petitioner at the time of certificate verification and to re-assess the marks to the petitioner. After re-assessing the marks, the respondent Board shall send a communication to the petitioner with regard to her selection to the post of Assistant Professor in Government Engineering Colleges under GT (G) quota in the available vacancy and forward the same to the user Department, if she is otherwise eligible as per the terms and conditions of the notification.

(c) The entire exercise shall be completed, within a period of six months from the date of receipt of a copy of this order.”

Questioning the same, the Teachers Recruitment Board was filed this Intra-Court appeal.

3.The learned Standing Counsel for the Board reiterated all the contentions set out in the memorandum of grounds of Writ Appeal and called upon this Court to set aside the impugned order and dismiss the Writ Petition.



W.A(MD)No.401 of 2024

4.Per contra, the learned Senior Counsel appearing for the writ petitioner submitted that the learned Single Judge rightly accept the case of the writ petitioner. He pointed out that the issue raised in this Writ Appeal is no longer *res integra* and it stands concluded by the Hon'ble Full Bench decision reported in **2014 (3) CTC 433 (Nadar Thanga Shubha Laxman A Vs. The State of Tamil Nadu)**. He pointed out that the Ministry of Human Resources Department had issued notification on 06.08.2018 to recognise the Ph.D degrees awarded by a Foreign University, if the Institution is ranking among top 500 in the specified World University rankings. He pointed out that the University of Newcastle, Australia is ranked within the top 500 and therefore Ph.D obtained by the writ petitioner has to come on acceptance. Following the decision of the Hon'ble Full Bench, the recognition made vide notification dated 06.08.2018 has to relate back. He also drew our attention to the notification dated 13.03.1995 issued by the Government of India stating that the Government of India decided that those foreign qualifications which are recognised / equated by Association of Indian Universities are treated as recognised for the purpose of employment to posts and services under the Central Government. He has enclosed copy of the Memorandum of Understanding between the 'Universities Australia' and 'Association of Indian Universities'. The list of Australian Universities covered by the said



W.A(MD)No.401 of 2024

Memorandum of Understanding had been annexed and the University of Newcastle, Australia is one among them. This according to the learned Senior Counsel appearing for the writ petitioner, the Ph.D degree awarded by the University of Newcastle, Australia is to be recognised right from 1995 onwards. He called upon this Court to sustain the order passed by the learned Single Judge and dismiss the Writ Appeal.

5.We carefully considered the rival contentions and went through the materials on record.

6.We are not in a position to go by the notification dated 13.03.1995 enclosed in the typed set of papers filed on 14.11.2024. Reliance on the notification dated 13.03.1995 is placed for the first time by the writ petitioner before this Bench. It was not projected before the learned single Judge. There is no reference to the said notification in the affidavit filed in support of the Writ Petition. Even before us, no verifying affidavit has been filed. It is not known as to when MoU between the 'Universities Australia' and the 'Association of Indian Universities' was entered. The index to the typed set of papers also does not indicate the date. More than anything else notification dated 13.03.1995 itself states that it pertains to employment to the posts and



W.A(MD)No.401 of 2024

services under the Central Government. The case on hand does not pertain to employment under the Central Government. If really the notification dated 13.03.1995 would govern the field, there is no need for issuing one more notification dated 06.08.2018.

7.The only question that calls for consideration is whether the learned Judge was justified in retrospectively applying the notification dated 06.08.2018 issued by the Ministry of Human Resources and Development Department, Government of India in favour of the writ petitioner. It is true that the Hon'ble Full Bench in the decision reported in **2014 (3) CTC 433 (Nadar Thanga Shubha Laxman A Vs. The State of Tamil Nadu)** had held as follows:

“25.In view of the above settled position and for the foregoing reasons, we hold that the Equivalence Certificate issued by the Committee constituted by the Government declaring that the Degrees obtained from one University is equivalent to the Degrees obtained from yet another University cannot be held to be only prospective in operation, but will have its effect and validity right from the date of issuance, therefore, with due respect to the Hon'ble Division Bench, the view taken in N.Geetha's case is incorrect. Accordingly, the Reference is answered.”

In our view, the Hon'ble Full Bench decision may not have any application to the case on hand. We are not dealing with the case of equivalence. The Hon'ble



W.A(MD)No.401 of 2024

Full Bench declared that once equivalence is declared, it would relate back to the date of acquisition of degree. The case on hand rather pertains to recognition of Ph.D degree awarded by a Foreign University.

8.Further, the Hon'ble Supreme Court in a decision reported in **(2015) SCC 8 484 (Prakash Chand Meena & Others Vs. State of Rajasthan & Others)** had held as follows:

“9.The candidates who were aware of the advertisement and did not have the qualification of CPED also had two options, either to apply only for PTI Gr. II if they had the necessary qualification for that post or to challenge the advertisement that it omitted to mention equivalent or higher qualification along with qualification of CPED for the post of PTI Gr. III. Having not challenged the advertisement and having applied for the other post, they could not have subsequently claimed or be granted eligibility on the basis of equivalence clarified or declared subsequently by the State Government. In the matter of eligibility qualification, the equivalent qualification must be recognised as such in the recruitment rules or government order existing on or before the initiation of recruitment process. In the present case, this process was initiated through advertisement inviting application which did not indicate that equivalent or higher qualification holders were eligible to apply nor were the



W.A(MD)No.401 of 2024

equivalent qualifications reflected in the recruitment rules or government orders of the relevant time.”

WEB COPY

It is settled law that qualifications must be recognised as such in the recruitment rules or government order existing on or before the initiation of the recruitment process and not after it.

9. When the petitioner took part in the selection process in the year 2017, there was no notification recognising the Ph.D degree issued by the University of Newcastle, Australia in the recruitment conducted by the Teachers Recruitment Board for the post of Assistant Professor in Government Engineering Colleges in Tamil Nadu. In the grounds set out in the affidavit filed in support of the writ petition, the argument projected was that there was no stipulation that Ph.D awarded by a Foreign University will not be taken into consideration for awarding mark. Such a negative argument will not hold good. Section 2(i) of AICTE, 1987 defines an University as one falling under Section 2(f) of the University Grants Commission Act. The said provision reads as follows:

*“**University**” means a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, and includes any such institution as may, in consultation with the University concerned, be recognised by the*



W.A(MD)No.401 of 2024

Commission in accordance with the regulations made in this behalf under this Act.”

WEB COPY

It is obvious that a degree awarded by a University falling within Section 2(f) alone can be recognised for the purpose of public employment. Such a recognition in favour of University of Newcastle, Australia came only in the year 2018 for all purposes.

10.It is well settled that the selection process has to be governed by the rules and norms applicable when the recruitment notification was issued. In this case, the recruitment notification was issued on 16.07.2014. The selection process concluded in the year 2017 and the petitioner also joined duty on 09.06.2017. She cannot take advantage of a subsequently issued notification. The petitioner need not have any real apprehension at all. Now that UGC on recognised a degree awarded by the Foreign University, it will have to be taken into account for the purpose of promotion. There cannot be any dispute or quarrel on this. All that we are holding is that a concluded selection process cannot be unsettled by citing a subsequently issued notification. In this view of the matter, the order impugned in the Writ Appeal is set aside.



W.A(MD)No.401 of 2024

11.This Writ Appeal is allowed accordingly. There shall be no order

as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [R.P., J.]
21.11.2024

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA

To

1.The Secretary to Government,
Collegiate Education,
Secretariat,
Chennai

2.The Commissioner,
Directorate of Technical Education (DOTE),
Sardar Patel Road,
Chennai – 600 025.



WEB COPY



W.A(MD)No.401 of 2024

G.R.SWAMINATHAN, J

and

R.POORNIMA, J.

MGA

W.A(MD)No.401 of 2024

and

C.M.P(MD)No.3545 of 2024

21.11.2024