



WP(MD). No.17132 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 26.07.2024

CORAM

THE HON'BLE Ms.JUSTICE R.N.MANJULA

WP(MD). No.17132 of 2024
and WMP(MD) Nos.14775, 14777 of 2024

T.Arul Jegan

... Petitioner

Vs

1. The Director of School Education,
College Road, Chennai – 600 006.
2. The Chief Education Officer,
Nagercoil, Kanyakumari District – 629 001.
3. The District Educational Officer(Secondary),
Nagercoil, Kanyakumari District – 629 001.
4. The Correspondent,
St.Marys Higher Secondary School,
Colachel - 629251,
Kanyakumari District.

... Respondents

PRAYER :- Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 3rd respondent / District Educational Officer(Secondary) in Na.Ka.No.



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7360/Aa1/2022, dated 17.07.2023 quash the same and further direct the 2nd respondent / Chief Education Officer to approve the appointment of petitioner as PG Assistant in Political Science in the 4th respondent School w.e.f.01.07.2019 and disburse grant-in-ad towards his salary and other monetary benefits.

For Petitioner : Mr.S.Xavier Rajini

For Respondents : Mr.T.Amjad Khan (R1 to R3)
Government Advocate

ORDER

Heard Mr.S.Xavier Rajini, learned counsel appearing for the petitioner and Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents 1-3.

2. This Writ Petition has been filed challenging the impugned proceedings issued by the 3rd respondent / District Educational Officer(Secondary) in Na.Ka.No.7360/Aa1/2022, dated 17.07.2023 and further to direct the 2nd respondent / Chief Education Officer to approve the appointment of the petitioner as a PG Assistant in Political Science in the 4th respondent School w.e.f.01.07.2019 and disburse grant-in-ad towards his salary and other monetary benefits.



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3.The petitioner has been appointed as a P.G Assistant (Political Science) in the fourth respondent school. When the petitioner's appointment has been sent for approval the same was returned on 17.07.2023 by seeking certain clarifications. One among the clarification is that the petitioner had completed M.A.Political Science from November 2014-2015 and thereafter, he had done B.A. Political Science from December 2015 to May 2017. Hence, the proposal has been returned seeking for Government orders to approve the petitioner's qualification for deviating from the pattern of 10+2+3+2.

4.As per the Tamil Nadu Private Schools Regulations Rules, 1974, the qualification criteria required for appointment of PG Assistant is reads as follows:

"(i) a Master's Degree or its equivalent standard the subject in respect of which the appointment is made.

Provided that persons holding the certificate in Science and Humanities for Graduate Teachers in High Schools shall be considered for appointment as teachers in the subject relating to Science and Humanities:



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Provided further that, other things being equal, preference shall be given to those who have studied the same subject in which he has obtained the Post-Graduate degree as main subject under Part III in degree level:

Provided also that for appointment to certain subjects in which Master's degree are not awarded, persons possessing Master's degree in other subjects shall be considered:

Provided also that a Master's degree in Statistics or its equivalent standard in Statistics shall be an alternative qualification for appointment as subject teachers in Maths by promotion; and

(ii) B.T. or B.Ed, degree or its equivalent"

However, the petitioner appears to have done his post graduation after he has got qualified in Under Graduation in some other subject (B.Sc., Maths) only, thereafter, he had done B.A (Political Science) also.

5.In Private Schools Regulation Rules, 2023 there is an addition stating that the candidate must possess UG and PG degree in the same subject or equivalent in respect of which the recruitment is made.

Even though the Tamil Nadu Private Schools Regulation Act 2018 and



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its Rules, 2023 come into force only from 13.01.2023, the petitioner's appointment relates back to the year 2019, during which time, the old Rules is in force. The old Rules does not prescribe the condition that the candidate should possess both the UG and PG degree in one and the same subject.

6.A similar issue when surfaced in W.P(MD) No. 16669 of 2016 and in the said case, the Government Order prescribing both the UG and PG degree in one and the same subject for the appointment of PG Assistant in Political Science has been challenged.

7.This Court has observed that the qualification prescribed under Section 56 of the Tamil Nadu Private Schools Regulations Act is applicable to the case of the petitioner therein and without amendment of the Rules, the execution orders in the name of G.O.Ms. No. 361 School Education Department, dated 31.12.1999 and G.O.Ms.No.720, Education Department, dated 28.04.1991 should be issued and even if such orders are issued that will not have any binding effect.



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8.G.O.Ms.No.361, dated 31.12.1999 prescribes minimum qualification for the post and says that the candidate is eligible to be appointed to the post of PG Assistant, only if the candidate possess both UG and PG degree in one and the same subject. The Government Order mainly prescribed for the appointment of teachers in the Government School. But it also says that Rules are applicable to the Private Aided Schools as well. Since the Government Order has been passed without amending the Rules, it is held that the same is not applicable to the case of the petitioner.

9.In the instant case also, the petitioner, who has been appointed as a PG Assistant (Political Science), has got the qualification according to old G.O., which does not prescribe UG and PG should be in one and the same subject. In fact, in the case in hand, the petitioner has also got UG degree in Political Science, though it was attained by him after he had secured B.Sc., (Mathematics) and M.A., (Political Science). But at the point of time, in which, the petitioner obtained B.A., in Political Science does not matter, because the Rule which was enforced at the relevant point of time only prescribes PG qualification in Political



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Science. The petitioner's additional qualification, ie., Bachelor degree in Political Science also will make him better qualified. Since the impugned order has been passed on the wrong presumption that the petitioner falls under the new Rule and does not have the pattern of 10 + 2+ 3 + 2, the impugned order is liable to be set aside.

10. Accordingly, this writ petition stands allowed and the impugned order of the 3rd respondent in Na.Ka.No.7360/Aa1/2022, dated 17.07.2023 is hereby quashed. No costs. Consequently, connected miscellaneous petitions are closed.

26.07.2024

NCC : Yes/No
Index : Yes/No
PNM

To

1. The Director of School Education,
College Road, Chennai – 600 006.

2. The Chief Education Officer,
Nagercoil, Kanyakumari District – 629 001.

3. The District Educational Officer(Secondary),
Nagercoil, Kanyakumari District – 629 001.

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R.N.MANJULA, J.

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