



W.P.(MD) Nos.19186 and 19449 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) Nos.19186 and 19449 of 2020

W.P.(MD) No.19186 of 2020:

A.Sahaya Selvi

... Petitioner

Vs.

1.The Joint Director of School Education (Vocational),
College Road,
Chennai-600 006.

2.The Chief Educational Officer,
Theni,
Theni District.

3.The Headmaster,
Government Higher Secondary School,
Silamalai, Theni District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd respondent Chief Educational Officer in Na.Ka.No.513/A5/2019, dated 04.09.2020, quash the same and further



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direct the respondents herein to pass necessary orders in promoting the petitioner as Computer Instructor Grade-I.

W.P.(MD) No.19449 of 2020:

M.Vinoth Kumar

... Petitioner

Vs.

1.The Joint Director of School Education (Vocational),
College Road,
Chennai-600 006.

2.The Chief Educational Officer,
Theni, Theni District.

3.The Headmaster,
Government Higher Secondary School,
Thevaram, Theni District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd respondent Chief Educational Officer in Na.Ka.No.513/A5/2019, dated 04.09.2020, quash the same and further direct the respondents herein to pass necessary orders in promoting the petitioner as Computer Instructor Grade-I.

In both W.Ps.

For Petitioner : Ms.A.Amala



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For Respondents : Mr.V.Om Prakash
Government Advocate

COMMON ORDER

The petitioners were initially appointed as Computer Instructor Grade-II in the 3rd respondent-School on 08.11.2008 and 10.11.2008 respectively and their services were also regularised in the said post and they have been working as such till date. While so, through proceedings in Na.Ka.No.8095/v1/e2/2019, dated 21.01.2020, the Joint Director of School Education directed all the Chief Educational Officers to prepare and recommend the eligible Computer Instructor Grade-II for promotion to the post of Computer Instructor Grade-I duly specifying the qualifications to be possessed by such candidates. In response to the same, the 3rd respondent herein submitted a proposal to the 2nd respondent and the 2nd respondent, having considered the said proposal, forwarded the same to the 1st respondent and the 1st respondent through proceedings in Na.Ka.No.8905/v1/e2/2019, dated 02.09.2020 proposed to upgrade several Computer Instructor Grade-II to the post of Computer Instructor Grade-I and the petitioners herein were found at Sl.Nos.564 and 565 of the list annexed to the said proceedings.



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However, no proceedings were issued promoting the petitioners to the post of Computer Instructor Grade-I and subsequently, through proceedings in Na.Ka.Nos.513/A5/2019, dated 04.09.2020, certain Computer Instructor Grade-II were promoted to the post of Computer Instructor Grade-I. However, the name of the petitioners were missing in the said list. Aggrieved by the same, the petitioners approached this Court by filing these writ petitions.

2. It is the case of the petitioners that they are fully qualified and eligible for promotion to the post of Computer Instructor Grade-I, but their case was erroneously ignored by the respondents and the impugned proceedings came to be issued withholding the names of the petitioners.

3. According to the learned counsel for the petitioners, the case of the petitioners was withheld on the ground that they have pursued the Post Graduate Course as well as B.Ed., Course simultaneously and therefore, the said qualifications are not recognised and as such, they are not entitled for promotion to the post of Computer Instructor Grade-I. Further, it is also



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contended that in terms of Point No.4 of the proceedings dated 02.09.2020, issued by the Joint Director, it is only the candidate, who has acquired dual Bachelors Degree are made ineligible, but not the candidates, who acquired Post Graduate Degree and Bachelors Degree simultaneously and therefore, the said Point No.4 applies only to the the candidates, who obtained Under Graduate Degrees, but not to the case of the petitioners. She also contended that in the absence of any prohibition acquiring different degrees simultaneously, refusing to recognise such degrees acquired simultaneously is not permissible under law and she also placed reliance on a decision of a Division Bench of this Court in W.A.No.786 of 2016, dated 11.07.2016, wherein the learned Division Bench held as under:

“6. ... Even otherwise, for the purpose of accepting the case of the first respondent/writ petitioner in obtaining the two degrees simultaneously, one in correspondence course and another in regular course, in the absence of any such bar to pursue the two degrees simultaneously, in our view, the decision of the appellant/TNPSC, after entertaining a doubt at a later stage, to withdraw the appointment of the first respondent/writ petitioner already selected under the



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Tamil medium, is redundant and totally unnecessary to the issue raised herein. In that view of the matter, as ordered by the learned single Judge, it is for the appellant/TNPSC to take a decision at the earliest and to do the needful, as there was no bar for a candidate/student to pursue the two degrees simultaneously at the relevant point of time. Accordingly, the writ appeal stands disposed of. Consequently, C.M.P.No.10209 of 2016 is closed. No costs.”

4. On the other hand, the respondents filed a counter affidavit contending that the petitioners have acquired the Post Graduate Degree and B.Ed., Degree simultaneously during the year 2011 and therefore, the said qualifications are not recognised and as such, they are not eligible for promotion to the post of Computer Instructor Grade-I.

5. Sri V.Om Prakash, learned Government Advocate also placed reliance on a decision of a Full Bench of this Court in W.P.Nos.2807 of 2014 and batch, dated 26th April, 2021 in support of his contention.



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6. There is no dispute on factual aspects. Admittedly, the petitioners acquired Post Graduate qualification as well as B.Ed., qualification, which are the basic qualifications to hold the post of Computer Instructor Grade-I simultaneously during the year 2011. The reliance placed by the learned counsel for the petitioners on the decision of this Court in W.A.No.786 of 2016 is no more good law, in the light of the decision of the learned Full Bench in W.P.Nos.2807 of 2014 and batch.

7. A learned Single Judge of this Court, having noticed divergent views expressed by two Division Benches, in W.A.No.845 of 2013 and W.A.No.1098 of 2012, referred the matter to the Full Bench for resolving the conflict. Accordingly, the matter was placed before the learned Full Bench for answering the following question:

“Whether two degrees (dual degrees) obtained simultaneously during the same academic year, can be considered for employment purpose, particularly, for being selected to a post under the Tamil Nadu Higher Secondary Education Service?”



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8. The learned Full Bench, after having considered the matter elaborately, has been pleased to uphold the view taken by the Division Bench in W.A.No.845 of 2013 in the case of ***B.Jagadeeswari vs. The Chairman, Teachers Recruitment Board, Chennai*** and overruled the view taken by the Division Bench in W.A.No.1098 of 2012 in the case of ***The Secretary, School Education Department, Fort St. George and two others vs. L.Kavitha.***

9. The view taken by the learned Division Bench in W.A.No.1098 of 2012 is similar to the view taken by the learned Division Bench in W.A.No.786 of 2016 relied upon by the learned counsel for the petitioners. The learned Full Bench, after considering the conflict, has been pleased to hold as under:

“30. Now, coming to the issue under reference, the Division Bench in B.Jagadeeswari v. The Chairman, Teachers Recruitment Board, Chennai [W.A.No.845 of 2013 dated 07.01.2014] has rightly held that unless the dual degrees obtained simultaneously in the same academic year is



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recognized, a candidate cannot seek for a direction to the appointing authority to select and appoint him/her to a particular post. Incidentally, the Division Bench has also held that unless a specific direction is issued by the UGC in the form of statutory notification, mere recommendation of the UGC approving the proposal to permit the students to pursue two degrees simultaneously in the same academic year have only a recommendatory value. As stated earlier, unless and until, the UGC recognizes such degree courses, there is no obligation on the part of the university or the employers / recruiting agencies to recognise such degree course in the absence of any such rules in this regard. Thus, we are in agreement with the law laid down by the Division Bench in B.Jagadeeswari v. The Chairman, Teachers Recruitment Board, Chennai [W.A.No.845 of 2013 dated 07.01.2014]. For the reasons already discussed by us hereinabove, we are not in agreement with the judgment rendered by the latter Division Bench in The Secretary, School Education Department, Fort St. George, Chennai and 2 others v. L.Kavitha [W.A.No.1098 of 2012 dated 24.06.2016] as it did not lay down the correct law.”



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10. In the light of the above, the reliance placed by the learned counsel for the petitioners on the decision of the learned Division Bench in W.A.No.786 of 2016 is of no avail, as the same was impliedly overruled by the learned Full Bench.

11. Learned counsel for the petitioners, having confronted with the decision of the learned Full Bench, contended that as on the date of decision of the learned Full Bench, certain recommendations that were made by the University Grants Commission for recognising the degrees that were acquired simultaneously were pending for notification and subsequently, a notification has been issued by duly notifying the guidelines for pursuing two academic programmes simultaneously and as such, the same is now stood recognised. A copy of such guidelines is also placed before this Court.

12. A perusal of the said guidelines makes it clear that the said guidelines were given prospective effect and all the academic programmes done simultaneously prior to the notification of the said guidelines were not



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recognised. Guideline No.5 of the said guidelines reads as under:

“5. These guidelines shall come into effect from the date of their notification by the UGC. No retrospective benefit can be claimed by the students who have already done two academic programmes simultaneously prior to the notification of these guidelines.”

13. These guidelines came into force on 13.04.2022. From Guideline No.5 of the above guidelines, it is clear that academic programmes done simultaneously by the student prior to the date of notifying of the said guidelines will not enure to the benefit of the respective students. Admittedly, the petitioner herein acquired the qualification of Post Graduate and B.Ed., during the year 2011, that is, much prior to the issuance of the guidelines referred to above. Therefore, the fact that the guidelines were notified subsequent to the decision of the Full Bench is of no help to the case of the petitioner, as such guidelines themselves dis-entitles the students from claiming any benefit from the academic programmes that were done simultaneously prior to the date of issuance of such guidelines.



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14. Yet another contention raised by the learned counsel for the petitioner, by placing reliance on a decision of the Hon'ble Apex Court in the case of ***Goan Real Estate and Construction Limited and another vs. Union of India***⁽ⁱ⁾ with regard to the prospective application of the decision of the Full Bench, by contending that as on the date of passing of the impugned order, the Full Bench judgment was not available and therefore, as on the relevant date, the law enables the petitioner to claim the benefit of the qualifications acquired simultaneously.

15. This Court does not find any substance in the said submission. When a matter comes up for consideration before this Court, the law that is prevailing as on the date is required to be applied, but not the law that was prevailing as on the date of filing of the writ petition. The question of giving retrospective effect to the Full Bench judgment does not arise. The decision relied upon by the learned counsel for the petitioners is a case where the validity of CRZ Notification dated 19.02.1991 was challenged and the said notification was finally set aside and the Hon'ble Apex Court and while

(i) (2010) 5 SCC 388



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disposing of the case, held that all the actions that are taken till the date of setting aside of the said notification stand valid. But the situation in this present case is totally different. The claim of the petitioners for promotion to the post of Computer Instructor Grade-I was negated by the respondents on the ground that the petitioners are not qualified, as they acquired two qualifications simultaneously and the learned Full Bench of this Court upheld the very same stand by its judgment dated 26.04.2021. Therefore, the decision relied upon by the learned counsel for the petitioners is of no assistance to advance the case of the petitioners.

16. In the light of the above and especially considering the decision of the learned Full Bench referred to above, this Court is of the considered view that there are no merits in the writ petitions and the same are accordingly dismissed. No costs.

26.02.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes
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MUMMINENI SUDHEER KUMAR, J.

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