



W.A(MD)No.1598 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2024

CORAM:

**THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN
and
THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN**

W.A(MD)No.1598 of 2016
and
C.M.P(MD)No.11989 of 2016

1. The Secretary to Government,
School Education Department,
Fort St.George, Chennai.

2. The Director of School Education,
College Road, DPI Campus,
Chennai-06.

3. The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.

4. The District Educational Officer,
Tirunelveli, Tirunelveli District.

... Appellants

VS.

1. J.Rachel Christy

2. The Correspondent,
Schaffter Higher Secondary School,
Tirunelveli,
Tirunelveli District.

... Respondents

Page No.1 of 9



W.A(MD)No.1598 of 2016

PRAYER : Appeal filed under Clause XV of Letters Patent, against the order passed in W.P(MD)No.22437 of 2015 dated 14.07.2016.

For Appellant : Mr.D.Sadiq Raja
Additional Government Pleader
For R1 : Mr.C.Vakeeswaran
For R2 : No appearance

JUDGMENT

[Judgment of the Court was made by
MRS.V.BHAVANI SUBBAROYAN.J.]

Challenging the order passed in W.P(MD)No.22437 of 2015 dated 14.07.2016, the Education Department has filed this appeal.

2. The 1st respondent/writ petitioner was appointed as B.T Assistant(English) in the 2nd respondent school with effect from 18.10.2012 in the retirement vacancy. According to the 1st respondent, the said post is a regular sanctioned post and when the proposal for approval for the said appointment was submitted by the 2nd respondent school, the 4th appellant returned the same with a direction to resubmit the proposal along with the particulars regarding pass in TET by the 1st respondent. According to the 1st respondent, G.O.Ms.No.181, dated



W.A(MD)No.1598 of 2016

15.11.2011 insisting pass in TET for appointment as teacher required to be obtained by every teacher within a period of five years from the date of commencement of the Right of Children to Free and Compulsory Education Act, 2009 is not applicable to the 2nd respondent school since it is a minority institution. Hence, the 1st respondent filed writ petition challenging the said order dated 27.05.2015 to quash the same with a consequential direction to the appellants to approve her appointment with effect from 18.10.2012 with all attendant benefits including arrears of salary and allowances. The Writ Court by order dated 14.07.2016 disposed of the writ petition and the operative portion of the order reads as under:-

*"7.It may be mentioned herein that the petitioners no doubt were appointed in a sanctioned posts arising out of the retirement of vacancies. However, as the issue as to whether the provisions of the Right of Children to Free and Compulsory Education Act 2009, would not be applicable to a minority institution, is pending consideration in **Aswinithanappan Vs. Director of Education and another – (2014) 8 SCC 272**, following the abovesaid order passed by the Hon'ble Division Bench in W.A.No.1299 of 2015 dated 14.09.2015, these writ petitions are disposed of with the following directions:-*

The petitioners shall be given salary in the course of their employment within a period of four weeks from the date of receipt of a copy of this order and no steps to remove them from service shall be taken. However, it is made clear that this order is subject to the final



W.A(MD)No.1598 of 2016

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outcome of the case pending before the Supreme Court in Aswini Thanappan Vs. Director of Education and another – (2014) 8 SCC 272.

It is further made clear that the petitioners shall not claim any equity on account of this order, without prejudice to the rights and contentions of the parties. No costs. Consequently connected Miscellaneous Petitions are closed."

3. Challenging the said order, the Education Department is on appeal.

4. Learned Additional Government Pleader appearing for the appellants submitted that the 1st respondent has obtained a degree in B.A(English) as a double degree which is not a valid degree. Therefore, her basic qualification for appointment as B.T Assistant (English) itself is not legally valid. Hence, her appointment could not be approved. He further submitted that though proposal was returned by the appellants on the score that the 1st respondent did not pass TET, the fact that she possessed invalid degree was noticed only when fresh proposals received pursuant to the order of the Division Bench in W.A(MD)No.216 of 2016, dated 14.03.2016 issuing directions to pay salary to the 1st respondent. In support of the said contention, learned Additional Government Pleader



W.A(MD)No.1598 of 2016

also relied upon the Hon'ble Full Bench judgment in **R.Chitra and others vs. Teachers Recruitment Board, Chennai and others [W.P.No. 16871 of 2020 and 25698 of 2017, decided on 26.04.2021]** and submitted that in the said judgment, the Full Bench has categorically held that there is no obligation on the part of the university or the employers / recruiting agencies to recognize such double degree courses in the absence of any such rules in this regard. Thus, he prayed for allowing the appeal.

5. We have heard the learned Additional Government Pleader appearing for the appellants as well as the counsel for the 1st respondent.

6. It is the contention of the appellants that the 1st respondent has obtained degree in B.A(English) as a double degree which is not a valid degree. Originally, approval of the 1st respondent's appointment was declined on the ground of not possessing TET qualification by the 1st respondent and challenging the same, the 1st respondent filed writ petition in W.P(MD)No.22437 of 2015, in which, an interim order was granted on 15.12.2015 directing the appellants to pay salary to the 1st respondent



W.A(MD)No.1598 of 2016

from the date of her appointment till the disposal of the writ petition.

Against the said interim order, the appellants filed W.A(MD)No.216 of 2016 and the same was disposed of by the Division Bench on 14.03.2016 confirming the interim order of the Writ Court. It is the case of the appellants that only pursuant to the said order of the Division Bench, when fresh proposals were received from the 2nd respondent school, they found out that the 1st respondent has acquired B.A (English) as a double degree which is not a valid degree in view of the aforesaid Full Bench judgment, as such, the 1st respondent has not possessed the required qualification for the post of B.T Assistant (English) and consequently, her appointment based on such double degree cannot be approved by the appellants.

7. It is relevant to extract below the operative portion of the Full Bench judgment in **R.Chitra's case** (supra) for better appreciation of the case on hand:-

*"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*



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*the same academic year is 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 recognize such degree courses 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 judgement 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."*

8. On perusal of the aforesaid Full Bench judgment, we are of the view that the said judgment is squarely applicable to the case on hand. In this case also, as evident from the degree certificate of the 1st respondent, the 1st respondent has completed B.A (English), which is a basic qualification for appointment as B.T. Assistant (English), as a Double Degree from the Annamalai University during the examination held in December 2006.



W.A(MD)No.1598 of 2016

9. Hence, applying the ratio laid down by the Hon'ble Full Bench in **R.Chitra's case** (supra), the Writ Appeal is allowed and the order of the Writ Court in W.P(MD)No.22437 of 2015 dated 14.07.2016, is set aside. No costs. Consequently, connected miscellaneous petition is closed.

(V.B.S.J.,) (K.K.R.K.J.,)
26.03.2024

Index :Yes / No
Neutral Citation :Yes / No
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To

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