



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2025

CORAM:

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**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A.No.892 of 2024
and
C.M.P.No.6258 of 2024**

The Chairman,
Teachers Recruitment Board,
4th Floor, Puratchi Thalaivar
Dr.MGR Centenary Building,
DPI Campus, College Road,
Chennai - 600 006.

...

Appellant

versus

1.A.Sumithra,
D/o.B.Ayyappasamy,
No.3/973, Mahalakshmi Nagar,
N.S.Nadar Thottam,
Dindigul - 624 005.

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

...

Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order passed in W.P.No.602 of 2021 dated 10.11.2022.

For Appellant : Mr.R.Neelakandan
Additional Advocate General
for Mr.K.Sathish Kumar
Standing Counsel



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For Respondents : Mr.G.Sankaran
Senior Counsel
for Mr.J.Jayamalan - R-1

Mr.U.M.Ravichandran
Special Government Pleader - R-2

J U D G M E N T

(Judgment of the Court was made by **R.SUBRAMANIAN, J.**)

Challenge in this appeal is to the order of the Writ Court made in W.P.No.602 of 2021 dated 10.11.2022.

2. The first respondent applied for the post of Computer Instructor Grade-I (Post Graduate Cadre) in response to a Notification issued by the appellant / Teachers Recruitment Board [hereinafter called as “TRB”] on 01.03.2019. The last date for submission of the application was on 10.04.2019. As per the Notification, a candidate must possess the required qualification on the date of application. This is clear from clause 4(b)(viii) which reads as follows:-

“(viii) The candidates not having prescribed qualifications, as on the last date of submission of filled-in online application, shall not be eligible to apply. The candidates should satisfy themselves about their eligibility before applying. It is to be noted that if a candidate is allowed to appear for the examination it



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does not imply that the eligibility of the candidate is verified. The eligibility shall be verified by the Board only at the time of Certificate Verification.”

3. The note is appended in clause 8 which reads as follows:-

“Note: All qualifying / equivalent certificates should have been obtained prior to the last date for submission of filled-in online applications, announced in the recruitment notification.”

4. The first respondent was successful in the written examination and her name figured in the provisional list, she was called for certificate verification. However, her name was left out in the revised provisional selection list dated 28.12.2020. Contending that her exclusion is improper, the first respondent came up with the writ petition, challenging the removal of her name from the final list dated 28.12.2020 and sought for a mandamus to restore her name and appoint her as Computer Instructor Grade-I (Post Graduate Cadre) with all attendant benefits and seniority.

5. This claim of the first respondent was resisted by the TRB on the ground that the first respondent had produced a consolidated mark sheet in proof of her having acquired the required qualification and the said



consolidated mark sheet is dated 21.10.2019. Relying upon the note in clause 8 which is extracted supra, the Board contended that since the proof of the educational qualification has been obtained after the cut-off date, namely 10.04.2019, the first respondent is rendered ineligible for appointment.

6. The writ court rejected the said contention and concluded that the claim of the Board is hyper technical. The writ court found that the first respondent had acquired the minimum qualification required which is prior to the cut-off date mentioned in the Notification namely 10.04.2019. Merely because the consolidated mark sheet was issued on 21.10.2019, the first respondent cannot be denied an opportunity of the employment. On the said finding, the writ court allowed the writ petition. Aggrieved TRB is on appeal.

7. We have heard Mr.R.Neelakandan, learned Additional Advocate General instructed by Mr.K.Sathish Kumar, learned Standing Counsel, appearing for the appellant and Mr.G.Sankaran, learned Senior Counsel instructed by Mr.J.Jayamalan, learned counsel, appearing for the



first respondent and Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the second respondent.

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8. Mr.R.Neelakandan, learned Additional Advocate General would reiterate the submissions that were made before the writ court to contend that the first respondent is not entitled to an appointment since the certificate obtained is after the cut-off date. Reliance is also placed on the judgment of the Division Bench of this Court in ***The Secretary, Department of School Education and others Vs. R.Vijayalakshmi and others dated 16.03.2020.***

9. Contending contra Mr.G.Sankaran, learned Senior Counsel appearing for the first respondent would submit that the claim of the TRB that the certificate is issued after the cut-off date itself is incorrect. What is produced at the time of certificate verification is a consolidated mark sheet issued for all the three years and the said consolidated mark sheet itself shows that the first respondent has appeared for the examinations between December 2016 and January 2019 and she had secured a pass in all the subjects.



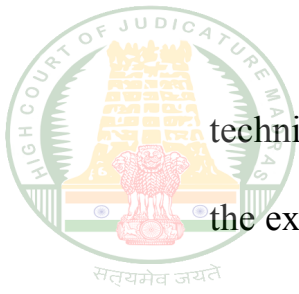
10. Therefore, it is clear that the first respondent has obtained the qualification prior to the cut-off date and this very consolidated statement of marks which was issued on 21.10.2019 provides ample proof for the fact that the first respondent has acquired the qualification prior to the cut-off date namely, 10.04.2019.

11. The learned Senior Counsel would also draw our attention to clause 5(b) of the notification which reads as follows:-

“(b). Evidence for claims made by the candidate while applying online should be submitted by the candidate at the time of Certificate Verification, if called for.”

12. Support is drawn from this clause by the learned Senior Counsel to submit that if the candidate produces proof of claim made in the online application at the time of certificate verification, her claim cannot be rejected on a technical ground.

13. Reliance is also placed by the learned Senior Counsel on the judgment of the Hon'ble Supreme Court in ***Food Corporation of India Vs. Rimbhim*** reported in ***(2019) 5 SCC 793*** where the Hon'ble Supreme Court after referring to various other pronouncements on the issue held that such



technical approach cannot be adopted and also made a distinction between the existence of a fact and proof of a fact.

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14. We have considered the rival submissions.

15. The facts are not in dispute. The first respondent had acquired the required qualification prior to the cut-off date in the Notification. The results of the last exam undertaken by her in January 2019 were declared on 15.03.2019. Therefore, on the date when she applied, she was qualified for being appointed as Computer Instructor Grade-I (Post Graduate Cadre). She had made a declaration in her online application to the effect that she has completed the Post Graduate qualification on the date of the application. When she was called for certificate verification, she had produced consolidated mark sheet which is dated 21.10.2019. This is sought to be taken advantage of the Board to reject the candidature of the first respondent relying upon the note to clause 4(b)(viii).

16. We do not think that such rejection is acceptable. From the very mark sheet that has been produced, it could be gathered that the first respondent has cleared all the examinations by January 2019. What has been



issued on 21.10.2019 is a consolidated mark sheet. The first respondent has also produced individual mark sheets which goes to show that the first respondent has completed the course on 15.03.2019 itself.

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17. In this context, the observations of the Hon'ble Supreme Court in ***Food Corporation of India*** cited *supra* assumes significance. Para 13 of the said judgment reads as follows:-

“13. Now so far as the submission on behalf of the FCI that a candidate must and/or ought to have produced the experience certificate along with the application is concerned, at this stage, a decision of this Court in Charles K. Skaria v. C. Mathew [(1980) 2 SCC 752 : 1980 SCC (L&S) 305] and the subsequent decision of this Court in Dolly Chhanda v. JEE [(2005) 9 SCC 779 : 2005 SCC (L&S) 734 : 5 SCEC 475] are required to be referred to. In Charles K. Skaria [(1980) 2 SCC 752 : 1980 SCC (L&S) 305], this Court had an occasion to consider the distinction between the essential requirements and the proof/mode of proof. In the aforesaid case, this Court had an occasion to consider the distinction between a fact and its proof. In the aforesaid case before this Court, a candidate/student was entitled to extra 10% marks for holders of a diploma and the diploma must be obtained on or before the last date of the application, not later. In the aforesaid case, a candidate secured diploma before the final date of application, but did not produce the evidence of diploma along with the application. Therefore, he was not allowed extra 10% marks and therefore denied the admission. Dealing with such a situation, this Court observed and held that



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what was essential requirement was that a candidate must have obtained the diploma on or before the last date of application but not later, and that is the primary requirement and to submit the proof that the diploma is obtained on or before a particular date as per the essential requirement is secondary. This Court specifically observed and held that “What is essential is the possession of a diploma before the given date; what is ancillary is the safe mode of proof of the qualification.” This Court specifically observed and held that “To confuse between a fact and its proof is blurred perspicacity.” This Court further observed and held that: (Charles K. Skaria case [(1980) 2 SCC 752 : 1980 SCC (L&S) 305] , SCC p. 762, para 20)

“20. ... To make mandatory the date of acquiring the additional qualification before the last date for application makes sense. But if it is unshakeably shown that the qualification has been acquired before the relevant date, as is the case here, to invalidate the merit factor because proof, though indubitable, was adduced a few days later but before the selection or in a manner not mentioned in the prospectus, but still above board, is to make procedure not the handmaid but the mistress and form not as subservient to substance but as superior to the essence.”

While observing and holding so, in paras 20 and 24, this Court observed and held as under: (Charles K. Skaria case [(1980) 2 SCC 752 : 1980 SCC (L&S) 305] , SCC pp. 762-63)

“20. There is nothing unreasonable or arbitrary in adding 10 marks for holders of a diploma. But to earn



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these extra 10 marks, the diploma must be obtained at least on or before the last date for application, not later. Proof of having obtained a diploma is different from the factum of having got it. Has the candidate, in fact, secured a diploma before the final date of application for admission to the degree course? That is the primary question. It is prudent to produce evidence of the diploma along with the application, but that is secondary. Relaxation of the date on the first is illegal, not so on the second. Academic excellence, through a diploma for which extra mark is granted, cannot be denuded because proof is produced only later, yet before the date of actual selection. The emphasis is on the diploma; the proof thereof subserves the factum of possession of the diploma and is not an independent factor. ... Mode of proof is geared to the goal of the qualification in question. It is subversive of sound interpretation and realistic decoding of the prescription to telescope the two and make both mandatory in point of time. What is essential is the possession of a diploma before the given date; what is ancillary is the safe mode of proof of the qualification. To confuse between a fact and its proof is blurred perspicacity. To make mandatory the date of acquiring the additional qualification before the last date for application makes sense. But if it is unshakeably shown that the qualification has been acquired before the relevant date, as is the case here, to invalidate this merit factor because proof, though indubitable, was adduced a few days later but before the selection or in a manner not



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mentioned in the prospectus, but still above board, is to make procedure not the handmaid but the mistress and form not as subservient to substance but as superior to the essence.

* * *

24. It is notorious that this formalistic, ritualistic, approach is unrealistic and is unwittingly traumatic, unjust and subversive of the purpose of the exercise. This way of viewing problems dehumanises the administrative, judicial and even legislative processes in the wider perspective of law for man and not man for law. Much of hardship and harassment in administration flows from overemphasis on the external rather than the essential. We think the Government and the selection committee rightly treated as directory (not mandatory) the mode of proving the holding of diplomas and as mandatory the actual possession of the diploma. In actual life, we know how exasperatingly dilatory it is to get copies of degrees, decrees and deeds, not to speak of other authenticated documents like mark-lists from universities, why, even bail orders from courts and government orders from public offices. This frustrating delay was bypassed by the State Government in the present case by two steps. Government informed the selection committee that even if they got proof of marks only after the last date for applications but before the date for selections they could be taken note of and secondly the Registrars of the Universities informed officially which of the candidates



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had passed in the diploma course. The selection committee did not violate any mandatory rule nor act arbitrarily by accepting and acting upon these steps. Had there been anything dubious, shady or unfair about the procedure or any mala fide move in the official exercises we would never have tolerated deviations. But a prospectus is not scripture and common sense is not inimical to interpreting and applying the guidelines therein. Once this position is plain the addition of special marks was basic justice to proficiency measured by marks.”

(emphasis in original)

A similar view is taken by this Court subsequently in Dolly Chhanda [(2005) 9 SCC 779 : 2005 SCC (L&S) 734 : 5 SCEC 475] , relying upon the aforesaid decision of this Court in Charles K. Skaria [(1980) 2 SCC 752 : 1980 SCC (L&S) 305] .”

18. As laid down by the Hon'ble Supreme Court, the fact that the first respondent has acquired the qualification is not in question. It is only the method of proof and the Hon'ble Supreme Court had made it very clear that the candidature should not be rejected on hyper technical grounds particularly when it relates to proof of a fact and not the existence of a fact itself.



19. The judgment that is referred to by the learned Additional Advocate General arose in totally different facts. That was a case where the candidates claimed quota reserved for persons studied in Tamil medium and the production of certificate along with the application to the effect that they are studied in Tamil medium was mandatory.

20. In such circumstances, the Division Bench said non-production of the certificate would entirely amount to disqualification. So the said judgment of the Division Bench cannot be a precedent to justify the hyper technical approach adopted by the appellant Board.

21. Hence, we see no reason to interfere with the order of the Writ Court. Hence, the Writ Appeal fails and it is accordingly **dismissed**. No costs. Consequently, the connected Miscellaneous Petition is closed.

(R.S.M., J.) (G.A.M., J.)
19.02.2025

Speaking order

Index : Yes

Neutral Citation : Yes

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To

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