



WP No. 34451 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-04-2025

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THE HONOURABLE MS JUSTICE R.N.MANJULA

**WP No. 34451 of 2019
and W.M.P.No.35132 of 2019**

1. R.Raju

S/o.S.Raju, B.T.Assistant (English),
Government Higher Secondary School,
Kandiramanikkam, Thiruvarur District
Thiruvarur

Petitioner(s)

Vs

1. The Director of School Education,
DPI Campus, College Road, Chennai
6Chennai

2.The Chief Educational Officer,
Thiruvarur District, Thiruvarur

3.The District Educational Officer,
Thiruvarur Educational District,
Thiruvarur

Respondent(s)



PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records relating to the impugned proceedings issued by the 2nd respondent in O. Mu. No. 9392 / Aa3/ 2018 dated 11.4.2019 and to quash the same and consequently directing the respondents to grant service benefits to the petitioner in the post of B.T. Assistant (English) from 17.12.2012 on par with his juniors appointed to the service in the same post including Annual Increments, arrears of salary as well as seniority, within a time frame to be fixed by this Honourable Court.

For Petitioner(s): S.Nedunchezhiyan

For Respondent(s): Mrs.Rajarajeswari
Government Advocate

ORDER

This writ petition has been filed to call for the records relating to the impugned proceedings issued by the 2nd respondent in O. Mu. No. 9392 / Aa3/ 2018 dated 11.4.2019 and to quash the same and consequently direct the respondents to grant service benefits to the petitioner in the post of B.T. Assistant (English) from 17.12.2012 on par with his juniors appointed to the service in the same post including Annual Increments, arrears of salary as well as seniority.

2. The petitioner had applied to the post of B.T.Assistant as well as Secondary Grade Teacher in response to the notification issued by Teacher



Recruitment Board (TRB) in the year 2012 and he got selected to the post of Secondary Grade Teacher and also B.T.Assistant. Though the petitioner stood at the top in the selected list of B.T.Assistant candidates, he was not issued with any order of appointment. Later he came to know that his appointment was withheld and the TRB is trying to ascertain whether B.A. (English with Computer Application) degree obtained by the petitioner from Bharathiyar University is equivalent to B.A.(English) degree sponsored by other Universities.

3. Later the Government has issued an order in G.O.Ms.No.72 Higher Education Department dated 30.04.2013, clarifying that B.A. (English) degree (English with Computer Application) obtained by the petitioner is equivalent to B.A.(English). In view of the same the petitioner was given with the appointment order to the post of B.T.Assistant English only on 22.02.2014. in the interregnum the petitioner joined to the other post of Secondary Grade Teacher and from there he relieved on 22.02.2014 and joined the post of B.T.Assistant on 25.02.2014 without any break in service.

4. Mr.S.Nedunchezhiyan, the learned counsel for the petitioner submitted that the petitioner was given with the appointment order to the post of B.T.Assistant belatedly in the year 2014 in view of the delay in obtaining the equivalence certificate and for which the petitioner cannot be found fault. So it is claimed that he should be provided with the service benefits, seniority as well



as arrears of salary in the post of B.T.Assistant on par with juniors by regularizing his period of service from 17.12.2012 on which date his juniors have joined the post of B.T.Assistant (English). The representation given by the petitioner in this regard was set aside by the second respondent vide order dated 11.04.2019. The impugned order of the second respondent is a cryptic order and it does not describe any rules and there is no appreciation on merits about the petitioner's claim.

5. Mrs.Rajarajeswari, the learned Government Advocate appearing for the respondents, submitted that as per instruction (6) of Rule 22B of Fundamental Rules, if a Government Servant who is already in a post appointed to another post by direct recruitment or when the mode of appointment to the new post is by direct recruitment, the Government servant should be allowed to draw the minimum time scale of pay as provided in the Service Rules relating to such appointments and his pay cannot be fixed under FR22 or 22(b). It is further submitted that the petitioner had already served as a Secondary Grade Teacher between the years 2012 and 2015 and at the time of certificate verification he did not have the equivalent degree for appointment and hence the delay occurred only because the petitioner did not have the equivalent degree.

5.1 The Government issued order in G.O.Ms.No.72 Higher Education Department dated 30.04.2013 to clarify that B.A.(English with Computer Application) is equivalent to B.A.(English). Had the petitioner possessed



B.A.English there will not be any hurdle for him and there is no need for the recruitment agency also to do the exercise of obtaining equivalence certificate and a Government order to that effect. Only when the Government could have passed the order stating that the educational qualification is equivalent to another educational qualification prescribed by the Recruitment Agency, it is possible for the agency to go to the next level of sending the list to the Government for the purpose of releasing the appointment order.

6. The learned counsel for the petitioner attracted the attention of this Court to the judgment of the Full Bench in the case of ***Nadar Thanga Shubha Laxman Vs. State of Tamil Nadu reported in 2014 (3) CTC 433*** wherein it is held that the equivalence certificate issued by the Committee constituted by the Government declaring that the degree is obtained from any University is equivalent to the degrees obtained from yet another University, will have its effect and validity from the date of its issuance. The relevant paragraph of the above judgment is extracted hereunder:

“ ... 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 by 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



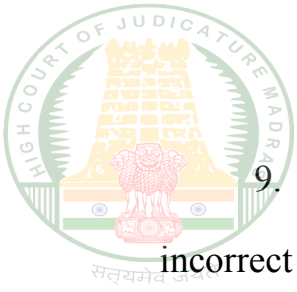
incorrect. Accordingly, the Reference is answered.”

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7. No doubt the petitioner's degree which was declared to be equivalent can be considered as operational from the date of issuance. In the said case an illustration has been given by indicating that if 'A' acquires a degree in B.A. In English and Communication on 01.01.2001, the said degree, having been considered as equivalent to B.A.English by the Equivalence Committee constituted by the Government dated 01.01.2012 the same cannot be equivalent from the date of passing the Government Order on 1.1.2012 belatedly, after two years and its validity will relate back to the date of issuance of the certificate issued by the University. But in the judgment of the Division Bench in ***N.Geetha Vs. The State of Tamil Nadu, rep, by its Principal Secretary, Department of School Education, Chennai and another***, it is held that the equivalent certificate will operate prospectively.

8. When the matter was referred to a Full bench, the Full Bench had taken up the following question to be answered:

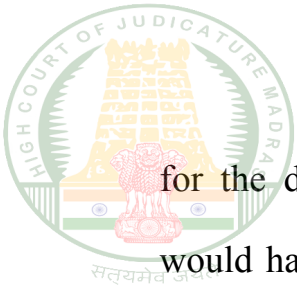
“Whether the Equivalence Certificate issued by the Committee constituted by the Government, declaring that the degree obtained from one University is equivalent to the degree obtained from yet another University is only prospective in operation and whether the view taken by the Division Bench of this Court in N.Geetha's case is correct ?”



9. The Full Bench has held that the view taken in *N.Geetha's case* is incorrect and thus it is overruled. So it is upheld that the degree obtained by a person who has got equivalence certificate can have its validity only from the date of issuance and held that the equivalence certificate issued by the Committee constituted by the Government declaring the degrees obtained from one University is equivalent to the degrees received from yet another University, will have its effect and validity from the date of issuance of the Government Order.

10. So it is claimed by the petitioner that he is entitled to get the appointment even when the appointment orders were released to other candidates but that has been delayed in his case. Hence he is entitled to get the benefits on par with his immediate juniors appointed to the service from 17.12.2012.

11. The petitioner's case is different from other candidates who shift from one service to other service for whom instruction 6 under FR22B will apply. That will arise for those candidates who were selected to another post and is applicable only if a Government servant who is already working in a post and got selected and appointed for an another post through the Tamil Nadu Public Service Commission by direct recruitment. In the instant case the petitioner has been selected for both the post of Secondary Grade Teacher and B.T.Assistant English. Naturally, the petitioner would have chosen to join B.T.Assistant. But



for the delay in granting the equivalence certificate, his appointment orders would have been issued on par with his juniors. In the interregnum he did not remain idle but he joined to the post of secondary grade teacher for which he got selected.

12. The retrospective validity of petitioner's B.A. (English) degree has been upheld in the judgment of the Full Court rendered in *Nadar's case (cited supra)*. So the validity of the B.A.(English) cannot be restricted by giving prospective operation from the date when equivalence certificate was issued by the Government. In fact the post for which the petitioner has got appointed now as B.T.Assistant (English) is a post which has been already reserved for him since he was found as one of the selected candidates in the list.

13. Attention was drawn to Rule 40 (1) & (2) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 which would read as under:

“40. (1) The seniority of a person in a service, class, category or grade shall, unless he has been reduced to a lower rank as a punishment, be determined in the order of his placement in the list prepared by the recruitment agency or appointing authority, as the case may be, in accordance with the rule of reservation and the order of rotation specified in Schedule-V, where it applies. The date of commencement of his probation shall be the date on which he joins duty irrespective of his



seniority.

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(2) The seniority of a person in a service, class, category or grade shall, where the normal method of recruitment to that service, class, category or grade is by more than one method of recruitment, unless the individual has been reduced to a lower rank as a punishment, be determined with reference to the date on which he is appointed to the services, class, category or grade:

Provided that where the junior appointed by a particular method of recruitment happens to be appointed to a service, class, category or grade, earlier than the senior appointed by the same method of recruitment, the senior shall be deemed to have been appointed to the service, class, category or grade on the same day on which the junior was so appointed:

Provided further that the benefit of the above proviso shall be available to the senior only for the purpose of fixing inter-se-seniority:

Provided also that where persons appointed by more than one method of recruitment are appointed or deemed to have been appointed to the service, class, category or grade on the same day, their inter-se-seniority shall be decided with reference to their age."

14. Admittedly, the petitioner has not been selected as an in-service candidate to a higher post from any lower post. The petitioner was already a selectee for the post of B.T.Assistant (English) and his appointment order was delayed just because the delay occurred in obtaining the order for declaring the



petitioner's certificate as equivalent. Hence, the Rule applicable to the case of the petitioner is Rule 40 (1) & (2) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and the petitioner should be treated on par with his batch mates who have got selected in the same year under the same list.

15. In view of the above stated reasons the Writ Petition is **allowed** and the order passed by the second respondent in O. Mu. No. 9392 / Aa3/ 2018 dated 11.4.2019 is hereby quashed and the respondents are directed to grant service benefits to the petitioner in the post of B.T. Assistant (English) from 17.12.2012 on par with his juniors appointed to the service in the same post including Annual Increments, arrears of salary as well as seniority, within a period of six weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

25-04-2025

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

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R.N.MANJULA J.

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