



WA(MD). No.490 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 06/03/2025

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs. JUSTICE S.SRIMATHY

WA(MD). No.490 of 2025
and CMP(MD) No.3835 of 2025

The Madurai Kamaraj University
Palkalai Nagar, Madurai 625 021
Rep. by its Registrar

... Appellant

V.

1.Sr.Biji Cyriac

2.The State of Tamil Nadu
Rep. by its Principal Secretary
Department of Higher Education,
Fort St. George, Chennai. 600 009.

3.The Director of Collegiate Education,
College Road, Chennai 600 006.

4.The Secretary
Fatima College (Autonomous)
Mary Land
Madurai 625 018.

... Respondents

PRAYER :- Writ Appeal filed under Clause 15 of Letters patent against
the order of this Court dated 17.04.2024 in WP(MD). No.7322/2023.



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For Appellant : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.T.Sakthi Kumaran

For Respondent : Mr.Isaac Mohanlal
Senior counsel for
M/s.A.Amala for R1
Mr.J.Ashok for R2&R3
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by J.NISHA BANU,J.)

The writ appeal is directed against the order of the writ Court dated 17.04.2024 in WP(MD) No.7322/2023.

2. The respondent University in the writ petition is the appellant herein.

3. This writ appeal is directed against the order of the writ Court, in and by which, the appellant was directed to approve the appointment of the 1st respondent in the 4th respondent college as Assistant Professor (Zoology).



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4. The facts relating to the filing of the writ appeal in nutshell are as follows:

The writ petitioner/first respondent has completed his M.Sc., Zoology (specialization in Genetics) degree and got appointed as Assistant Professor in the 4th respondent college on 12.08.2016. When the 4th respondent sent a proposal to the appellant seeking approval of the said appointment on 11.10.2016, the appellant refused the said approval on the ground that the first respondent has done his degree in M.Sc., Zoology (Genetics) and not in M.Sc (Zoology). It is also stated that both the degrees are not equivalent as per the equivalence Committee's report and based on the equivalence committee's report, G.O.Ms.No.34 dated 12.02.2018 was issued. On that score, the appointment of the 1st respondent was rejected. Challenging the said rejection, the writ petitioner/first respondent filed the writ petition, which was allowed by the writ Court. Aggrieved by the order of the writ Court, the appellant University is before this Court.

5. The learned Additional Advocate General appearing for the appellant has raised the following grounds:



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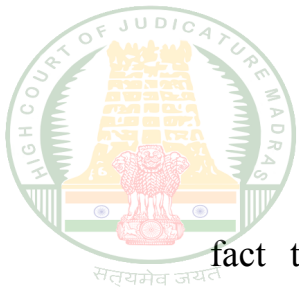
(i) The writ Court has failed to consider G.O.Ms.No.34 dated 12.02.2018, wherein, it has been observed that M.Sc Zoology (Genetics) degree is not equivalent to M.Sc., Zoology for the purpose of employment in public service;

(ii) The first respondent, instead of challenging G.O.Ms.No.34 dated 12.02.2018, has challenged the consequential order dated 21.11.2022, which has been issued pursuant to G.O.Ms.No.34;

(iii) G.O.Ms.No.34 was issued based on the resolution passed in the equivalence committee meeting held on 31.10.2017, wherein, it was held that M.Sc Zoology degree is not equivalent to M.Sc., Zoology (Specialization in Genetics) degree;

(iv) After the writ petition was filed on 29.03.2023, G.O.Ms.No. 111 Higher Education (K1) Department dated 17.04.2023 was issued affirming that M.Sc Zoology degree is not equivalent to M.Sc., Zoology (Specialization in Genetics) degree and submitted that when G.O.Ms.No. 34 and G.O.Ms.No.111 were in force, the first respondent is not entitled to any relief and the writ Court, without considering this aspect, had allowed the writ petition;

(v) The fourth respondent college also, without considering the



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fact that M.Sc Zoology (Specialization in Genetics) degree is not equivalent to M.Sc., Zoology degree and it was not held to be equivalent by any competent authority, has appointed the first respondent in the Government sanctioned post for which the salary is being paid by the Government, and

(vi) When the first respondent has also not produced any documents to substantiate his case that M.Sc., Zoology (Specialization in Genetics) is equivalent to M.Sc., Zoology, the writ Court has failed to consider the said aspect and allowed the writ petition.

6. Per contra, it is the submission of the learned counsel for the first respondent/writ petitioner that when the writ petitioner was under the legitimate expectation that his appointment would be approved, based on G.O.Ms.No.34 dated 12.02.2018 and based on the equivalence committee's report, the writ petitioner's appointment was not considered. He would further contend that though it is stated that the appointment was not approved due to G.O.Ms.No.34, the said G.O., was passed on 12.02.2018 and the writ petitioner's appointment was much before the issuance of the said G.O., ie., his appointment was in the year 2016.



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Hence, it is rightly considered by the writ Court that the said G.O. will not be applicable to the case of the petitioner, as it would not be taken retrospectively.

6.1. He would further contend that as per Section 15(i) and (ii) of the Tamil Nadu Private Colleges (Regulation) Act, 1976, the Government has powers to make regulations, statutes or ordinances specifying the qualifications required for appointment of professors in Private Colleges. Hence, the learned counsel prays that the writ Court has rightly held in favour of the writ petitioner and hence, the writ appeal is liable to be dismissed.

7. We have heard the learned Additional Advocate General appearing for the appellant and the learned senior counsel for the first respondent and have also perused the materials available on record.

8. It is not in dispute that the writ petitioner has been appointed in the post of Professor on 12.08.2016. Subsequently the respondent College has sent proposal for approval of the appointment of the writ



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petitioner on 11.10.2016. However, the appellant had rejected the same vide proceedings dated 21.11.2022. The rejection is based on G.O.Ms.No.34, wherein, it is stated that based on the recommendations of the equivalence committee's report, the said G.O. has been issued, whereby and whereunder, it is observed that the degree of M.Sc., Zoology (Specialization in Genetics) is not equivalent to M.Sc., Zoology. It is also not in dispute that the said G.O., has been passed subsequent to the appointment of the writ petitioner, ie., the appointment was made in the year 2016, whereas the said G.O., came into effect only on 12.02.2018. It is to be borne in mind that every circular and government orders are to be scrupulously followed prospectively and not retrospectively, unless it is specifically stated in the government order that the G.O. is made applicable retrospectively.

9.However, a settled proposition is staring on the Court. Whenever the Equivalence Committee declares the subject is “equivalent” on a later date, the same will date back to the date of issuance to the degree as held by the Hon’ble Full Bench in the case of *Nadar Thanga Shubha Laxman A. vs. The State of Tamil Nadu*, dated 29.11.2013, reported in



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MANU/TN/3031/2013. While examining whether the equivalence certificate issued by the committee will date back to the date of issuance to the degree, the Full Bench has held as follows:-

“13. The learned Division Bench, in its brief order, while dealing with the qualification namely, M.Sc., Mathematical Economics declared as equivalent to M.A. Economics degree by the Government in G.O.Ms. No. 72, Higher Education (K2), Department, dated 30.04.2013, as per the recommendation of the Equivalence Committee, was of the view that, if any selection is made for teacher appointment after G.O.Ms. No. 72, Higher Education (K2), Department dated 30.04.2013 which holds certain degrees equivalent to other degrees issued by some other educational institutions, such candidates become qualified from the date of such Government Order. Pausing here, straight away, we intend to observe that such a tight and narrow view to hold a particular degree as equivalent to another degree only from the date of the G.O. will unjustly take away the rights accrued from the date of acquisition of the degree, therefore, when there is no such specific mention made by the Government Order or the Equivalence Committee about the prospective or retrospective effect of the degree already obtained, giving prospective effect by reducing/curtailing the validity of the degree certificate is totally uncalled for. As a matter of fact, once the Equivalence Committee, after proper deliberations, have come to the conclusion that one degree issued by one university is



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equivalent to another degree issued by another university, it does not become equivalent to the other only from the date of issuance of the Government Order by the Government or on the date of Equivalence Committee considered it as equivalent, rather, it becomes equivalent from the very date of its issuance by the University concerned.”

If the above principles are applied then the G.O.Ms.No.34, which declares that M.Sc. Zoology (Genetics) is “Not Equivalent” to M.Sc. Zoology, would also be dated back to the issuance of degree certificate. Then the contention of the writ petitioner that the degree is obtained prior to equivalency is against the above proposition, which means the writ petitioner may not be entitled to continue in service.

10.It is seen that the Hon’ble Full Bench had dealt with the case when the Equivalency Committee had declared the subject is “equivalent”. But the same principle cannot be applied when the Equivalency Committee had declared the subject is “not equivalent”. If applied then the candidate would be prejudiced. Therefore, this Court is hesitant to apply such narrow interpretation.

11.It is seen that the basis of above proposition or foundation of

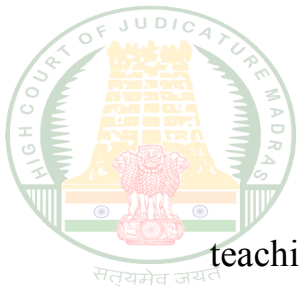


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the above proposition is that the subsequent G.O. shall not unjustly take away the rights accrued from the date of acquisition of the degree. Therefore, if the principles “accrued rights” are applied by invoking purposive interpretation, then it can be safely concluded that the accrued right of appointment need not be disturbed by the subsequent G.O. Therefore, this Court by applying purposive interpretation is of the considered opinion that if the appointment is earlier to G.O. then the said appointment need not be disturbed.

12. Coming to the applicability of Section 15(i) and (ii) of the Private Colleges Regulation Act, 1976, it is rightly held by the writ Court that University may make regulations, statutes or ordinances specifying the qualifications required for the appointment of teachers in private colleges and the Government may make Rules specifying the qualifications required for appointment to any post, other than teachers, in any private colleges.

13. From the above, it is abundantly clear that for teaching posts, the University may make rules specifying the qualifications and for non



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teaching posts or other than teachers, the Government may make rules.

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14. It is not the case of the appellant that the writ petitioner is not qualified to be appointed to the post of Assistant Professor. On being satisfied with the qualification of the writ petitioner, the 4th respondent college had appointed the writ petitioner. It is also brought to the notice of this Court that similarly placed person's appointment was approved. When similarly placed person's appointment was approved by the appellant University, taking a different stand to the first respondent/writ petitioner is non-est in the eye of law. The writ Court, on analyzing all these aspects, had rightly allowed the writ petition.

15. For all these reasons, we do not find any infirmity or illegality in the order passed by the writ Court. Accordingly, the writ appeal stands dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

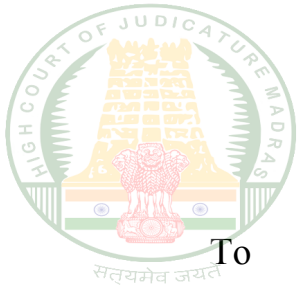
[J.N.B.,J]

[S.S.Y.,J]

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NCC : Yes/No
Index : Yes/No
RR

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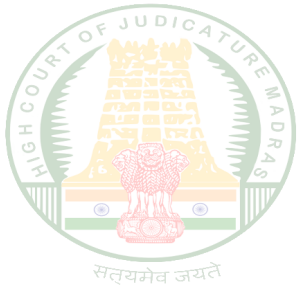
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To

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- 1.The Principal Secretary
Department of Higher Education,
Fort St. George,
Chennai. 600 009.

- 2.The Director of Collegiate Education,
College Road,
Chennai 600 006.



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RR

ORDER
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