

**(2014) 09 MAD CK 0119**

**In the Madras High Court**

**Case No :** M.P. Nos. 1 and 2 of 2014 in W.P. Nos. 19447 and 19810 of 2014 and  
M.P. No. 1 of 2014 in W.P. No. 19875 of 2014

A. Valarmathi

APPELLANT

Vs

The Chairman, Teacher Recruitment Board

RESPONDENT

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**Date of Decision :** 11-09-2014

**Acts Referred:**

University Grants Commission Act, 1956 — Section 26

**Citation :** (2014) 09 MAD CK 0119

**Hon'ble Judges :** R.S. Ramanathan, J

**Bench :** Single Bench

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**Judgement**

R.S. Ramanathan, J.—The petitioners, in all these cases, studied X Standard and completed XII Standard but did not get through the examination but, studied degree course in Open University. The petitioners in W.P. Nos. 19447 and 19810 of 2014 wrote Preparatory Programme Entrance Examination for admission to B.A. Degree through distance education and studied B.A. Degree, but later on, got through Higher Secondary Course Examination, and studied B.Ed Degree, and applied for the TRB Examination for teacher post and though secured good marks in the TRB Examination and were called for certificate verification, subsequently, they were not selected on the ground that they completed Higher Secondary Course after obtaining degree. Therefore, the petitioners filed the above Writ Petitions for the relief stated above.

2. The learned counsel appearing for the petitioners submitted that this Court in the judgments rendered in W.P. No. 6870 of 2013 dated 25.3.2013, in the matter of S. Ashalatha Vs. The Director of School Education, Chennai, and the Teacher Recruitment Board, Chennai; W.P. No. 13742 of 2010 (batch case) dated 21.4.2014 in the matter of J. Joseph Irudayaraj Vs. Joint Director of School Education, , in the matter of J. Joseph Irudayaraj vs. Joint Director of School Education (Secondary), Chennai and others; and W.P. No. 8872 of 2013 dated 4.4.2013 in the matter of N. Senthil Kumar vs. The Member Secretary Teachers

Recruitment Board, Chennai and others, held that a candidate cannot be disqualified on the ground of acquiring HSC (+2) qualification after obtaining a degree and in the judgment rendered in W.P. No. 13742 of 2010, this Court held that when a person joined B.A. Degree after getting through Entrance Examination, as per UGC regulations, he cannot be disqualified on the ground that he has not studied HSC (+2) and passed the same and therefore, the petitioners are to be considered for selection and the orders issued disqualifying them are liable to be set aside.

3. Mrs. P. Rajalakshmi, learned Government Advocate, took notice on behalf of the respondents and submitted that as per G.O. Ms. No. 107 P & AR Department, dated 18.8.2009, degrees obtained through Open University without passing Secondary School Education and Higher Secondary Course (+2), cannot be considered for appointment and promotion in public service and relying upon the judgments rendered in Annamalai University rep. by Registrar Vs. Secy. to Govt. Infn. and Toursm Dept. and Others, wherein UGC Regulation was upheld and it is made clear that the UGC Regulation should prevail over any other Act and the rules framed by the statute and as per Regulation 2 of the 1985 UGC Regulation, without completing 12 years schooling through an examination conducted by a Board/University, no student shall be eligible for admission to the first year degree through non-formal/distance education and submitted that as per the judgment of the Supreme Court in Annamalai University case as well as the judgment of a Division Bench of this Court reported in T.L. Muthukumar and Others Vs. Registrar General, High Court and Another, the petitioners are not entitled to get appointment as they have not passed HSC (+2) before completing the degree and therefore, the Writ Petitions are liable to be dismissed.

4. I am unable to accept the contention of the learned Government Advocate for the respondents. In the judgment rendered in W.P. No. 13742 of 2010 (batch case), the learned Judge of this Court considered the judgment of Annamalai University reported in Annamalai University rep. by Registrar Vs. Secy. to Govt. Infn. and Toursm Dept. and Others, , the scope of G.O. Ms. No. 107 P & AR Department, dated 18.8.2009 and held that as per UGC Regulation when a person studies Under Graduate Course after writing Entrance Examination, such person is entitled to hold the degree and it is valid. As stated supra, the petitioner in W.P. No. 19447 of 2014 and 19810 of 2014 studied HSC (+2) but did not get through the examination and after writing entrance examination, they studied Under Graduate Course through distance education and that is permissible under Regulation 2 of the UGC Regulations 1985 framed under Section 26 of the UGC Act 1956.

5. Admittedly, all the petitioners subsequently passed HSC examination after obtaining graduation. But, the fact remains that they underwent HSC (+2) and wrote the examination and failed in one subject and thereafter, wrote the entrance examination and studied Under Graduate Course in distance education and got themselves graduated. Therefore, the petitioners satisfy the requirement

under UGC regulation and as per the judgment of the Hon''ble Supreme Court, UGC regulation would prevail over the Government Order and therefore, it cannot be contended that the petitioners are not qualified to be appointed on the ground that they have passed HSC (+2) examination after graduation. Hence, the impugned orders are set aside and the Writ Petitions are allowed as prayed for. No costs. The connected Miscellaneous Petitions are closed.