
(2014) 06 MAD CK 0048

In the Madras High Court

Case No : Writ Petition No. 14924 of 2014 and M.P. Nos. 1, 2 of 2014

E. Rajeswari

APPELLANT

Vs

Secretary Tamil Nadu Public Service Commission

RESPONDENT

Date of Decision : 23-06-2014

Acts Referred:

Citation : (2014) 06 MAD CK 0048

Hon'ble Judges : S. Nagamuthu, J

Bench : Single Bench

Judgement

S. Nagamuthu, J.—The Tamil Nadu Public Service Commission issued Notification 1/2014, dated 06.02.2014, inviting applications for admission to the Written Examination for direct recruitment against the vacancies for the year 2013-2014 for the posts mentioned therein and included in Combined Civil Services Examination-II (Non-Interview Posts) (Group-II A Services) [Service Code No. 004]. The last date for submission of application was 30.04.2014. According to the Prospectus, there is a Note appended to Clause 3(B)(a) relating to Educational Qualification. The Note reads as follows:-

1) The qualification prescribed for these posts should have been obtained by passing the required qualification in the order of studies 10+3 years Diploma + 3 years degree, 11+2 years (Teacher Training) + 3 years degree, 10+2 years (ITI) + 3 years degree and 10+3 years diploma + 2 years degree (lateral entry) are equivalent to 10+ 2 years (HSC) + 3 years degree for the purpose for purpose of entry into public services.

2. Persons claiming equivalence of qualification should upload evidence for such claim when called for by TNPSC, failing which their application will be summarily rejected.

2. So far as the petitioner is concerned, she studied 10th standard, then obtained B.A. Degree and thereafter, passed +2 examination. The petitioner submitted her application through online on 20.04.2014. But the computer

rejected the same on the ground that the petitioner had not studied the above three courses in order, as it is stated in the Note. Thereafter, according to the petitioner, she sent a letter to TNPSC requesting to admit her in the above said written examination in view of the judgment of this Court in a similar writ petition.

3. It was submitted to the Commission that in W.P. No. 1068 of 2014, dated 11.03.2014 [V. Kanimozhi v. The Director of School Education], when a similar question arose as to whether the course should be studied in order, this Court by an order dated 11.03.2014 has held in paragraphs 10 to 14 as follows:-

10. Thus, it is crystal clear that as per the law laid down by the Division Bench in J. Jospeh Irudayaraj's case (cited supra), the requirements of G.O. Ms. No. 107, dated 18.08.2009 shall stand satisfied if the candidate has studied 12th Standard (+2) after completing B.A. degree course. In other words, because courses are done in reverse order, it is no matter at all.

11. The learned counsel has relied on yet another judgment of a learned Single Judge in S. Ashalatha Vs. The Director of School Education, Chennai in W.P. No. 6870 of 2013 dated 25.03.2013, wherein, in paragraph 4, more or less in similar circumstances, this Court has held as follows:

4. But, by virtue of G.O. Ms. No. 361, Education, dated 31.12.1999, persons who had secured a Post Graduate Degree in a different subject than the subject in which Under Graduate Degree course was undergone, were made ineligible for appointment to the post of P.G. Assistants. Therefore, the petitioner went back to an Under Graduate course, as it has not become routine for people to do courses in all orders, not necessarily in the chronological sequence, but in the reverse or even in perverse sequence. Anyway, the petitioner completed three year B. Litt. from Madras University. Therefore, on the date on which she applied for appointment, the petitioner had an Under Graduate Degree as well as a Post Graduate Degree in the same subject, undergone in the regular stream, from the University of Madras. In such circumstances, the rejection of her candidature on the ground that it was obtained in a reverse order is not correct. Hence, this writ petition is allowed and the respondents are directed to pass orders, appointing the petitioner, within a period of four weeks, if all other certificates are in order. There shall be no order as to costs. Consequently, M.P. Nos. 1 and 2 of 2013 are closed.

12. The Annamalai University rep. by Registrar Vs. Secy. to Govt. Infn. and Toursm Dept. and Others, has been referred to by the two Division Benches in their respective judgment. That was a case where, a Post Graduate degree obtained directly under the Open University system without doing Under Graduate degree was valid or not came up for consideration. In that case, the Hon"ble Supreme Court has held that before obtaining M.A. degree, as per UGC regulations, a candidate should have completed +2, followed by Under Graduate degree course. The Post Graduate degree obtained through Open University

scheme directly without having obtained a Under Graduate degree cannot be considered for the purpose of appointment as a Principal in a College. In that judgment, the Hon''ble Supreme Court had no occasion to consider as to whether if a candidate completes a Under Graduate degree course after having obtained his Post Graduate degree under the Open University system will be eligible. This question was virtually examined by the Division Bench in J. Joseph Irudayaraj's case (cited supra). As a matter of fact, the Division Bench in J. Joseph Irudayaraj's case (cited supra) has extensively considered the judgment of the Hon''ble Supreme Court in Annamalai University's case (cited supra).

13. In view of all the above, I have no hesitation to hold that rejection of the candidature of the petitioner by the second respondent is not sustainable.

14. In the result, the writ petition is allowed and the impugned order of the second respondent rejecting the candidature of the petitioner is hereby set aside and the second respondent is directed to consider the petitioner for appointment as Post Graduate Assistant Teacher in Tamil based on her marks secured after certificate verification, at any rate, final orders shall be passed by the second respondent in this matter within a period of four weeks from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed. No costs.

4. But the petitioner was not permitted to submit his explanation. In those circumstances, the petitioner is before this Court with this writ petition, seeking to quash the above said Note appended to Clause 3(B)(a) as unconstitutional and unreasonable.

5. I have heard the learned counsel for the petitioner and Mr. S. Nandakumar, learned Standing Counsel appearing for the respondent. I have also perused the records carefully.

6. In the judgment cited above, this Court after having elaborately considered the issue involved in identical circumstances has held that a candidate need not study these courses in order as it is stated in the Note. It is suffice if all the three courses have been studied at a different point of time and not simultaneously. Here in this case, the petitioner had studied these courses, but not in order. In my considered opinion, in view of the above said judgment, this Note, which runs contrary to the said judgment is liable to be set aside. But in this case, since the Prospectus mandates that application should be submitted only online, the petitioner could not submit his application in writing or in any other mode after his online application was rejected by the computer. Since the above Note is set aside now, the petitioner has to submit his application and the same has to be accepted by TNPSC. But, for submitting such an application, the petitioner has got difficulty since the application would be rejected by the computer. Therefore, in my considered opinion, it would be appropriate for this Court to issue a direction to TNPSC to supply a hard copy of the application within a period of two days from the date of receipt of a copy of this order to enable the petitioner to

submit her application and to allow her to participate in the written examination, which is scheduled to be held on 29.06.2014.

7. Before parting with this case, I wish to state that it is not understandable as to why TNPSC has made it mandatory that application should be made through only online mode and not in any other mode. Since the said issue is not before this Court, I do not want to deal with the matter elaborately, except stating that in my considered opinion, it would be appropriate for the TNPSC to allow the candidates to submit applications through other than online mode also.

8. In view of the above, the writ petition is allowed, the Note appended to Clause 3(B)(a) of the Prospectus is hereby set aside and the petitioner is declared as a qualified candidate to make her application and with a further direction to TNPSC to furnish a hard copy of the application to the petitioner, within a period of two days from the date of receipt of a copy of this order and on such application being submitted by the petitioner, it is directed that TNPSC shall permit her to participate in the examination, which is scheduled to be held on 29.06.2014. No costs. Connected miscellaneous petitions are closed.