

(2015) 03 MAD CK 0141

In the Madras High Court

Case No : Writ Petition (MD) No. 20173 of 2014 and M.P. (MD) Nos. 1 and 2 of 2014

M. Pottiammal

APPELLANT

Vs

The Secretary, Higher Education Department and Others

RESPONDENT

Date of Decision : 02-03-2015

Acts Referred:

Citation : (2015) 4 MLJ 398

Hon'ble Judges : K. Ravichandra Babu, J.

Bench : Single Bench

Advocate : J. Jeyakumaran, for the Appellant; S. Kumar, Addl. Govt. Pleader, Advocates for the Respondent

Final Decision : Allowed

Judgement

K. Ravichandra Babu, J.—The petitioner seeks for a Mandamus directing the second respondent to award 12 marks for teaching experience of the petitioner, as per the order passed in W.P(MD)No.18186 of 2013 dated 12.07.2013 and consequently, appoint her to the post of Assistant Professor, Tamil Nadu Collegiate Education Service for Government Arts and Science College - 2012.

2. The case of the petitioner is as follows:-

She passed B.A., (History) in 1990 and M.A., (History) in 1992 and she completed M.Phil (History) on 08.09.1997 and completed Ph.D., in the year 2012. The petitioner joined as Lecturer in Cardamom Planters Association College, Pankajam Nagar, Bodinayakanur on 09.07.1993 and worked there for a period of four months. Then, she was appointed in the very same college on 17.06.2002 and worked there till 30.09.2007. On 28.05.2013, the second respondent issued a notification for direct recruitment to the post of Assistant Professors. As per the notification, the candidates should have passed PG Degree in relevant subject with 55% marks and should also possess either SLET or NET or Ph.D. The scheme of selection involves two stages. First stage is that the

marks will be awarded to the candidates for the teaching experience and the qualification, based on the certificate produced along with the application form. Two marks for each year teaching experience, subject to the maximum 15 marks are allotted to the teaching experience. The petitioner made an application with relevant document to the second respondent. She was invited for an interview on 24.11.2014. As per the notification dated 28.05.2013, two marks were allotted for teaching experience for each year. In the meanwhile, corrigendum was issued by the second respondent on 19.06.2013, wherein, it was stated that the work experience while doing some degree or Ph.D will not be considered and the work experience after getting the required qualification for the post of Assistant Professor shall alone be considered for awarding marks (i.e.) P.G. with SLET/NET (or) Ph.D (or) M.Phil with SLET/NET. One A.Chandrasekaran filed a writ petition challenging the corrigendum notification No. 4/2013 dated 28.09.2013 in W.P. No. 18186 of 2013. The said writ petition was allowed by this Court on 12.07.2013 by directing the second respondent to fix a new yardstick for the appointment of Assistant Professor. As per the order in the said writ petition, the candidate who possesses PG with 55% marks with NET/SLET, exception for Ph.D dissertation submitted before 31.12.2002 or M.Phil completed before 31.12.2002 is entitled to be counted for teaching experience. The petitioner is having teaching experience as follows:-

"From 09.07.1993 to 09.11.1993

From 17.06.2002 to 17.04.2003

From 30.07.2003 to 07.04.2004

From 16.06.2004 to 15.04.2005

From 16.06.2005 to 12.04.2006

From 10.07.2006 to 28.10.2006

From 01.11.2006 to 17.04.2007

From 13.06.2007 to 30.09.2007"

Therefore, she is eligible for 12 marks for teaching experience. The respondent published the provisional selection list, wherein the petitioner was allotted 9 marks for educational qualification, 5 marks for interview and only 3 marks for teaching experience. On the other hand, the petitioner is entitled to get 12 marks for teaching experience. Therefore, the present writ petition is filed before this Court.

3. Counter affidavit is filed, wherein it is stated that the teaching experience of the petitioner from 09.07.1993 to 12.04.2006 is ineligible by placing the petitioner in the category of Serial No. 5 of the notification. Therefore, it is contended that the petitioner was awarded only three marks towards teaching experience for the period commencing from 10.07.2006 to 30.09.2007.

4. Heard both sides.

5. The short point for consideration is as to whether the petitioner is entitled to get 12 marks for teaching experience as contended by her or 3 marks alone as contended by the respondents.

6. In order to answer the above said question, it is better to appreciate the notification issued by the respondents. Before considering the relevant notification, it is worth to note the order passed by this court in W.P(MD)No.18186 of 2013 dated 12.07.2013, wherein at paragraph Nos. 19 and 20 it has been observed as follows:-

19. At the time of hearing, the learned Additional Government Pleader appearing for the Teachers Recruitment Board, has submitted that the TRB has decided to withdraw Clause 2 of the corrigendum dated 09.07.2013. The effect is that both Corrigendum dated 19.06.2013 and 09.07.2013 regarding the teaching experience have now gone. Hence, clause 16(i) of the original notification dated 28.05.2013 stands as it is. But Clause 16(i) does not give any guidelines about the determination of teaching experience. In those circumstances, as held above if a teacher acquired the qualification in terms of the UGC Regulations/Rules as prescribed by the Government/University, the name shall be the yardstick for determination of the teaching experience.

20. The following are the qualification for more than 25 years and the same shall be taken for regarding marks for the teaching experience:

7. As per the above said order, the Teachers Recruitment Board has to clarify the candidates by way of notification in the newspaper regarding the qualification mentioned in the above said order, more particularly for awarding marks for teaching experience. Thereafter, the corrigendum dated 28.05.2013 was issued and published in daily on 02.08.2013, which reads as follows:-

Government of Tamil Nadu

TEACHERS RECRUITMENT BOARD

4th Floor, EVK Sampath Maligai, DPI Compound, College Road, Chennai 600 006.

Corrigendum issued to Notification No. 04/2013 dated 28.05.2013

Published by Teachers Recruitment Board

The following corrigendum is issued to Advertisement No. 4/2013, Published towards, Direct Recruitment of Assistant Professor in the Government Arts and Science Colleges in Indian Express, Dinamani, Namathu M.G.R., and Dinathanthi Newspapers on 28.05.2013. Corrigendum-I, issued on 19.06.2013 and Corrigendum-II issued on 09.07.2013.

As per the Hon"ble High Court of Madras Orders in W.P. No.18186 of 2013, the Teachers Recruitment Board is directed to clarify to the Candidates by way of notification in the Newspapers that during relevant period, the qualification

mentioned in the paragraph below at the relevant point of time can be considered for awarding marks for Teaching Experience. The Teachers Recruitment Board issued the following Notification.

1. Corrigendum II dated 09.07.2013- Clause II stands as withdraw.
2. Yardstick for awarding marks for the Teaching Experience.
3. The last date for sale and submission of filed in application is extended upto 5.30 p.m. on 12.08.2013. Member Secretary

8. A perusal of the corrigendum would show that the same was made as per the direction issued by this court in the above said writ petition. Therefore, we have to see as to whether the corrigendum reflects the very same qualification referred to in paragraph No. 20 of the above said order. A comparative reading of paragraph 20 of the order as well as the yardstick for awarding the marks for teaching experience stated in the corrigendum would show that the respondents have miserably failed in extracting serial No. 4 as it is in the order passed by this Court in the above writ petition and they have omitted to include the term "M.Phil completed from before 31.12.2002". Therefore, it is evident that by mistakenly omitting to include the term M.Phil completed before 31.12.2002 in Serial No. 4, the petitioner was considered under category falling under Serial No. 5 and was given only 3 marks. On the other hand, when admittedly the petitioner has passed M.Phil degree in the year 1997 itself and therefore, she has completed the M.Phil before 31.12.2002 as contemplated under Serial No. 4 of the order passed by this Court as stated supra, she should have been given marks for teaching experience for the period commencing from 31.07.2002. In this case, it is not done so. The mistake is very evident and the said point raised by the petitioner is not answered by the respondents in the counter as well. Therefore, I am convinced that the petitioner is entitled to be awarded marks for teaching experience by placing her in Serial No. 4 of the qualification prescribed. Therefore, I am of the view that the petitioner is entitled to get the teaching experience counted from 31.07.2002 onwards. Accordingly, the writ petition is allowed and the respondents are directed to count the teaching experience of the petitioner from 31.07.2002 onwards and award appropriate marks for the same and consequently, based on the marks obtained by the petitioner, the respondents shall pass appropriate order appointing the petitioner in the post of Assistant Professor, if she is eligible based on the marks so obtained. Such exercise shall be done by the respondents within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.