
(2016) 06 MAD CK 0029
In the Madras High Court
Case No : W.A (MD) No. 877 of 2016

Thenmozhi

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 16-06-2016

Acts Referred:

Citation : (2016) 5 MLJ 645

Hon'ble Judges : Mr. Nooty Ramamohana Rao and Mr. S.S. Sundar, JJ.

Bench : Division Bench

Advocate : Mr. M. Ramu, Advocate, for the Appellant; Mr. VR. Shanmuganathan, Advocate, Mr. S. Kadarkarai, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Nooty Ramamohana Rao, J.—The writ petitioner is the appellant. She sought for a direction to the respondents 1 and 2, namely, the State Government of Tamil Nadu and the Chairman of Teachers Recruitment Board, to appoint the writ petitioner as Graduate Assistant (Chemistry) pursuant to the examination held regarding Teachers Eligibility Test, by taking note of the writ petitioner's qualifications, namely, B.Sc., Food Service Management and Dietetic and Chemistry as equivalent to B.Sc., Chemistry.

2. The State Government has taken out a Notification called "Tamil Nadu Teacher Eligibility Test (TNTET) - 2012" on 07.03.2012, inviting the candidates for appearing at the Teachers Eligibility Test (in short "TET"). In paragraph 3 of the Notification, the eligibility to write the test has been specified in the following words :

"3. Eligibility to write TET :

Candidates should possess the following prescribed qualifications to write the Teacher Eligibility Test :

Candidates who have passed Higher Secondary Course (10+2 Pattern) and

Diploma in Teacher Education in a Recognised Teacher Training Institute/DIET and seeking appointment as Teacher for classes I to V (except Visually Impaired Candidates) can write Paper I.

Candidates who have passed a Bachelor's Degree (B.A./B.Sc./B.Litt.) with Tamil, English, Mathematics, Physics, Chemistry, Botany, Zoology, History and Geography or a Degree with any one of the equivalent subjects from a Recognised University under 10+2+3 Pattern and a Degree in Teacher Education (B.Ed.) from a Recognised University and seeking an appointment as Teacher for classes VI to VIII can write Paper II.

Candidates appearing for the Final Year Examination of D.T.Ed./B.Ed. during the current Academic Year are also eligible to appear for the Teacher Eligibility Test."

3. We are, now, concerned in the instant case with regard to the recruitment of those with degree qualifications. The eligibility test comprised of Paper-I and Paper-II. Those who preferred to teach Classes VI to VIII, will have to appear for Paper-II examination. The eligibility to appear for Paper-II discloses that those who possessed Bachelor Degrees, such as, B.A., B.Sc., B. Litt., with Tamil, English, Mathematics, Physics, Chemistry, Botany, Zoology, History and Geography are rendered eligible to appear for the said examination. However, those with a Degree with any one of the equivalent subjects from the recognised University under 10+2+3 pattern, are also rendered eligible for appearing for Paper-II. In the instant case, the writ petitioner/appellant has obtained her B.Sc., Degree, initially, from Avinashilingam Institute for Home Science and Higher Education for Women, Coimbatore, a Deemed University.

4. The claim of the writ petitioner is that though she has obtained a Bachelor's Degree in B.Sc., Food Service Management and Dietetic, but nonetheless Chemistry is one major subject which she has studied. Chemistry was shown as the second major subject which she has studied. The writ petitioner has passed the first major subject in her graduate course, namely, Food Service Management and Dietetic, with First Class - Distinction and her second major subject, Chemistry also with First Class - Distinction. She seems to be a very bright student, no doubt. But, unfortunately, the Teachers Recruitment Board has not considered her claim for appointment on the ground that she does not possess B.Sc., Chemistry Degree. Therefore, the question has boiled down as to whether the Degree of B.Sc., possessed by the writ petitioner can be treated as sufficient and equivalent to B.Sc., Degree in Chemistry.

5. What should be the eligibility qualification for recruitment of a Teacher, is undoubtedly a policy choice of the State. The State, to cater to it's needs, designs every recruitment process and also comes up with suitable qualifications for such recruitment process. Undoubtedly, the State has contemplated and provided for a "Bachelors Degree" with any one of the equivalent subjects from a recognised University also as an eligibility criteria.

6. When once the Notification for recruitment itself specifies that a Bachelors

Degree with one of the equivalent subjects, is also an equally suitable qualification, rendering such candidates also eligible to appear for Paper-II examination, onus clearly lies on the State and the Teachers Recruitment Board to explicitly make clear as to which are those Degrees that could be treated by them as equivalent qualification. Perhaps, an exhaustive list of such Degrees could not be enumerated. The reasons could be many, including the fact that when many Deemed Universities are permitted to be established by granting necessary approvals by the University Grants Commission and consequently, each such University would have been accorded necessary academic freedom to prescribe the curriculum and content of the course offered by it, there could not have been available an exhaustive list of qualifications which could be treated as equivalent qualification. But however, when individual cases have cropped up, like in the present case, it is for the respondents 1 and 2 to immediately take necessary measures for considering as to whether the qualification possessed by the candidates concerned, is equivalent to those which have already been prescribed or not. That is where, the respondents are found wanting.

7. Sri. VR. Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 to 3, is right in pointing out that it is not for each candidate to assume that the qualification held or possessed by him is an equivalent qualification to B.A., B.Sc., or B.Litt., Degrees, which are rendered as the eligible qualifications by the respondents 1 and 2. The State Government itself has constituted an Equivalence Committee, through their orders contained in G.O.Ms. No. 441, P&AR(R) Department, dated 20.12.1993. The reasons for constituting such a Committee are very obvious. Courts, in particular, or for that matter, the State Government or its Officers, individually, may not be equipped well to treat or consider one particular course of study as equivalent, in scope and content with any other, Degree offered by a recognised University. Any such decision has to be necessarily preceded by an indepth study of the course curriculum and content and evaluation thereof, which would be possible only by the academics who are subject experts. In fact, the Constitution Bench of the Honourable Supreme Court, in *University of Mysore v. C.D. Govinda Rao* reported in AIR 1965 SC 491, in paragraph 12, has clearly brought out that the High Court does not have necessary competence to deal with matters of equivalence, particularly, when the opinion of high ranking academic bodies, such as, Universities or for that matter, that of the Equivalence Committee constituted by the State Government are rendered. Therefore, the State Government has very rightly constituted the Equivalence Committee, through their aforementioned orders comprising of academics. It is for the State Government and also incidentally, the Teachers Recruitment Board to keep on moving the said Equivalence Committee, periodically or at regular intervals so as to enable the said Committee to study carefully, the question of granting equivalence to various varieties of courses offered by various Universities across the breath and length of the State. After all, the main aim of the State and for that matter, that of the second respondent, is to scout for the best talent available and recruit them to public services, so

that by recruiting the most efficient amongst the eligible candidates, efficiency of public services will get boosted.

8. No doubt, the learned Special Government Pleader appearing for the respondents 1 to 3, would submit that in the instant case, since selection process is already completed and the writ petitioner has not produced necessary Equivalence Certificate, in time, her claim cannot be considered for appointment now. However, we are unable to appreciate this contention. The writ petitioner has not held back any information. She has clearly submitted that she has obtained B.Sc., Degree in Food Service Management and Dietetic and Chemistry, from Avinashilingam Institute for Home Science and Higher Education for Women, Coimbatore, a Deemed University. She has studied at Degree level Chemistry as second major subject while Physics was the ancillary subject studied by her. When the equivalent qualification prescribed in the Notification was B.Sc., Degree with Mathematics, Physics, Chemistry, Botany, Zoology or Geography, it was intended to indicate to the community of aspirants that they must study Mathematics, Physics, Chemistry, Botany, Zoology or Geography, as a major optional subject at Degree level. At any rate, we do not have any material on record to disclose that the Universities in this State are offering B.Sc., (Chemistry), B.Sc.,(Physics) or B.Sc.,(Botany) Degrees etc. It would have been a different matter if the students are made to study throughout the duration of the three year course-the study of B.Sc., Degree course-only one major subject at their option, such as Chemistry, Physics, Botany, etc. Such was not the case here. But however, if they study Chemistry, Physics, Botany or Zoology, as a major subject of study with some other subject(s) simultaneously as optional subject(s), then the emphasis is obviously played more on the study of major subjects and less on ancillary subjects. Keeping this in mind, we have looked at the B.Sc., Degree secured by the writ petitioner from the fourth respondent. It is crystal clear therefrom that she has studied Chemistry as second major subject. Therefore, a case is made out by the writ petitioner/appellant for having her B.Sc., Degree analysed by the Equivalence Committee constituted by the State Government and in the event, the said Committee comes to a conclusion that the course content offered by the fourth respondent and studied by the writ petitioner/appellant is equivalent, to that of a B.Sc., Degree offered by any of the conventional Universities established by the State or Central Government in the State of Tamil Nadu, then the candidature of the writ petitioner/appellant will have to be considered for selection as she has already cleared the Test.

9. The learned Counsel for the writ petitioner/appellant contends that there are still vacancies. If that be so, consideration of her case, based upon the Equivalence Certificate that might be furnished by the Equivalence Committee, will have to be accepted. The candidates with bright academic credentials are the one who are scouted for securing them to hold public employment.

10. We are, therefore, of the opinion that this writ appeal deserves to be allowed, by giving a direction to the respondents 1 and 2 to immediately take up the task

of sending B.Sc., Degree Certificate of the writ petitioner/appellant with all other necessary materials, that might be secured from or furnished by the fourth respondent on its own, to the Equivalence Committee and let an appropriate decision be rendered within a maximum period of two months from the date of receipt of a copy of this judgment and thereafter, the State Government may take appropriate final decision as to whether to accept the decision of the Equivalence Committee or not, and in the event, the State Government accepts the decision of the Equivalence Committee, then the second respondent shall take up the case of the writ petitioner/appellant for consideration for appointment to the post for which she has applied for and found eligible, strictly in accordance with her merit ranking, but not merely due to her approaching this Court and pass appropriate orders. We hope and trust that the entire exercise would get completed before the end of this year.

11. Accordingly, this writ appeal stands allowed as above. No costs.